A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 85-258 ENTITLED “A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(373), (STEINPRESS DEVELOPMENT)” (MODESTO EMERALD VILLAGE, LLC)

WHEREAS, the City Council by Ordinance No. 2331-CS, which became effective on May 7, 1985 granted Planned Development Zone, P-D(373), to allow single-family rental units with related parking and storage on property located on the northwest corner of Elm and Emerald Avenues, 601 Emerald Avenue, and

WHEREAS, City Council Resolution No. 85-258 adopted by the City Council on May 7, 1985, approved the development plan for Planned Development Zone, P-D(373) and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(373), was filed by Modesto Emerald Village, LLC on February 26, 2007, to allow the conversion of existing rental units to for-sale townhouse units, property located on the northwest corner of Elm and Emerald Avenues, 601 Emerald Avenue, and

WHEREAS, after a public hearing held on September 10, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-36, that the amendment to Planned Development Zone P-D(373), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment is consistent with the Modesto Urban Area General Plan, because the use is consistent with the Residential (R), designation for the site.

2. The proposed Planned Development Zone Amendment will be compatible with the surrounding residential land uses.
WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Modesto Emerald Village, LLC for an amendment to Planned Development Zone, P-D(373) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-36 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3457-C.S on the 23rd day of October 2007, amending Section 2 of Ordinance No. 2331-C.S., to allow for sale detached townhouse units.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 85-258 entitled "A Resolution Approving a Development Plan For Planned Development Zone, P-D(373), (Steinpress Development)" are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(373), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Emerald Villas" as amended in red, stamped approved by the City Council.

2. All conditions of City Council Resolution No. 85-258, not in conflict with this action shall remain in full force and effect.

3. Improvement Plans for any required improvements shall be prepared by a registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans."
4. Prior to the issuance of a building permit, a landscaping and irrigation plan for any new landscaping shall be approved by the Parks, Recreation and Neighborhood Director or designee. Proposed Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

6. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District’s Electric Service Rules. Costs for relocation and/or undergrounding the District’s facilities at the request of others will be borne by the requesting party.

7. The developer shall identify required fire lanes as follows: signs posted along the roadways every 25 feet or curbs painted red and the words, in six-inch high block letters “FIRE LANE NO PARKING” in white, every 25 feet.

8. The required 20 foot wide fire lane shall not be obstructed in any way.

9. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

10. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner’s Association (HOA) which shall guarantee continued maintenance of common facilities in the development including: the tot-lot and hardscape (lot “A”). In addition, the HOA shall be responsible for the perpetual maintenance and preservation of the front yards of each lot. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.

11. Prior to sale of a condominium unit, a subdivision map shall be recorded.

12. 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. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

13. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

14. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

15. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

16. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

17. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
18. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

19. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

20. Suspend excavation and grading activity when winds exceed 20 mph.

21. Limit the area subject to excavation, grading and other construction activity at any one time.

22. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to...
pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

23. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.”

“SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(373):

The entire construction program shall be accomplished in one phase, construction to begin on or before two years after the date of City Council approval and completion to be not later than three years after the date of City Council approval.”

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.
SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-616

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN
THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN
AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT
(SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE,
P-D(373), PROPERTY LOCATED ON THE NORTHWEST CORNER OF ELM
AND EMERALD AVENUES, 601 EMERALD AVENUE (MODESTO EMERALD
VILLAGE, LLC)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified
the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041)
for the Modesto Urban Area General Plan, and

WHEREAS, Modesto Emerald Village, LLC has proposed an amendment to
P-D(373) to allow for the conversion of existing rental units to for-sale townhouse units,
on the property located on the northwest corner of Elm and Emerald Avenues, 601
Emerald Avenue, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing
subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial
Study on any proposed subsequent project to analyze whether the subsequent project may
cause any significant effect on the environment that was not examined in the Master
Environmental Impact Report and whether the subsequent project was described in the
Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department by
Environmental Assessment Initial Study EA/C&ED 2007-33 ("Initial Study") reviewed
the proposed amendment to P-D(373) to determine whether the project is within the
scope of the project covered by the Modesto Urban Area General Plan Master EIR
("Master EIR"), and concluded that the proposed project is within the scope of the Master
EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on September 29, 2007 the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(373), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.
5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2007-33
City of Modesto

Finding of Conformance to
General Plan Master EIR:

Initial Study C&ED No. (2007-33)

For the proposed:

Planned Development Amendment and Tentative Subdivision Map
P-PDA-07-003 & P-TSM-07-003

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

June 26, 2007
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: P-D(373) Amendment & Tentative Subdivision Map – Condo Conversion

B. Address or Location: 601 N. Emerald, Modesto CA

C. Applicant: Modesto Emerald Village LLC 1050 Fulton Avenue, Suite 218 Sacramento, CA 95825

D. City Contact Person: David Wage

Project Manager: David Wage
Department: Community and Economic Development Department
Phone Number: (209) 577-5302
E-mail address: dwage@modestogov.com

E. Current General Plan Designation(s): "R" Residential Land Use

F. Current Zoning Classification(s): "P-D 373" Planned Development Zone, P-D 373

G. Surrounding Land Uses:
   North: Residential Dwellings (R-1 Zone Property)
   South: Residential Dwellings (R-1 Zone Property)
   East: Residential Dwellings (R-1 Zone Property)
   West: Residential Dwellings (R-1 Zone Property)
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

There are 37 residential townhouses/cottages existing on the 140,738 square foot parcel. The applicant is proposing to amend the existing Planned Development Zone to allow the conversion of the units into individually owned “for sale” units. The applicant has also submitted an associated Subdivision Map application. The existing complex will not be expanded, modified, and no new facilities/units will be added. No changes will occur to the previously approved site plan.

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. Mitigated Negative Declaration Required - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

\[\text{Signature}\] 
Project Manager

\[\text{Signature}\] 
Assistant Planner

June 26, 2007
Date
4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. X ☐

(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. X ☐

(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR). X ☐

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. X ☐

(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan. X ☐

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR. X ☐

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. X ☐

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: X ☐

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. X ☐
IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the “Baseline Developed Area”:

Effect: Increased traffic will result in certain roadway segments operating at LOS “D” or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.
Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
This is an application to convert existing units to condominiums. The conversion is compatible with the existing surrounding residential development located in this neighborhood. The project is consistent with the surrounding uses, the proposed project will not change to a level that will cause a change to the existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

YES NO

(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. X

Note:
If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

YES NO

(2) Substantially increase hazards due to a design feature (e.g., sharp curves X
or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Result in inadequate emergency access.  
(4) Result in inadequate parking capacity.

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comments:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) There is no parking requirements associated with a subdivision map. However, future development on the subdivision will be required to provide parking in accordance with City Standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects
Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES NO

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. ☐ X

(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. ☐ X

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. ☐ X

(4) The project would expose sensitive receptors to substantial pollutant concentrations. ☐ X

(5) The project would create objectionable odors affecting a substantial number of people. ☐ X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPCD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a subdivision of property. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:
Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baselinedeveloped area are incorporated into the conditions of approval for the project.
(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:
The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project will directly result in the development of land outside the March 2003 planning area boundaries.
3. The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.
4. The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.

**DISCUSSION:**

1. The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.
2. The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.
3. The project site is not zoned for agriculture nor is it under Williamson Act contract.
4. The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

**5. WATER SUPPLY**

a. **Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to water supply:

**Effect:** Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface-water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

**Effect:** Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.
Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
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<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan.
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid
violation of wastewater discharge requirements. As a result, this impact would be less-than-significant.

**Effect:** The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

**Note on the WMP Master EIR.** The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project.

**c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>□</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.</td>
<td>□</td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The project is inconsistent with the Modesto Urban Area General Plan.</td>
</tr>
<tr>
<td>2. Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.</td>
</tr>
<tr>
<td>3. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.</td>
</tr>
</tbody>
</table>
DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:
(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less-than-significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
</tr>
<tr>
<td>(2)</td>
<td>The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.</td>
<td>☐</td>
</tr>
<tr>
<td>(3)</td>
<td>Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td>☐</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “R” (Residential Land Use) designation in both land use and intensity.

(2) The project does not propose to increase the impervious surface, the residential development already exists. The project will meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures,” adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:
Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act. ☐ X

(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures. ☐ X

(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less-than-significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the
project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project
Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. **Project-Specific Effects**

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
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<td></td>
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</tr>
</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. ☐ X

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. **FIRE SERVICES**

a. **Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to fire services:

**Effect:** The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

**Effect:** In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

b. **Master EIR and/or New Mitigation Measures Applied to the Project**
The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan “R” (Residential Land Use) designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for
diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.

**Effect:** New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

c. **Project-Specific Effects**

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.</td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. **HAZARDOUS MATERIALS**

**a. Significant Effects Identified in the Master EIR**
The Master EIR identified the following significant environmental impacts relative to hazardous materials:

**Effect:** The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2)</td>
<td>The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td>X</td>
</tr>
<tr>
<td>(3)</td>
<td>The project contains a contaminated site not identified as of March 2003.</td>
<td>X</td>
</tr>
<tr>
<td>(4)</td>
<td>The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td>X</td>
</tr>
<tr>
<td>(5)</td>
<td>The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**
1. The project is consistent with the Modesto Urban Area General Plan "R" (Residential Land Use) designation in both land use and intensity.

2. This is an infill project, which involves the an existing residential project to be converted to residential condominiums. No hazardous materials will be involved with this project.

3. The project site is not known to contain any contaminants.

4. The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

5. The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects
Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES

NO

1. The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. ☐ X

DISCUSSION:

1. The project is consistent with the General Plan in both land use and intensity.

2. The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION: No mitigation measures are applicable to this project.
c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
</tbody>
</table>

**DISCUSSION:**

(1) The project is consistent with the Modesto Urban Area General Plan “R” (Residential Land Use) designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project includes a substantive amendment to the Modesto Urban Area General Plan.</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project would physically divide an established community</td>
<td>X</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) The project is consistent with the Modesto Urban Area General Plan “R” (Residential Land Use) designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is an infill project that will act to connect an existing community rather than divide one.
20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>3</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>4</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development is already existing.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:
Air Quality Measures:

1. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

   D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

   E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

   F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

   G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

**Agricultural Land Measures:**

N/A

**Water Supply Measures:**

N/A

**Sanitary Sewer Service Measures:**

N/A

**Sensitive Wildlife and Plant Habitat Measures:**

N/A

**Archaeological or Historic Sites Measures:**

N/A

**Storm Drainage Measures:**

1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Flooding and Water Quality Measures:**

1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A
B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-617

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2006-563 ENTITLED “A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2004-045 ENTITLED ‘A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(564), (SOELLING).’ (BRANDVOLD)” (BRANDVOLD)

WHEREAS, the Modesto City Council, by Ordinance No. 3342-C.S., adopted on January 13, 2004, and which became effective on February 26, 2004, granted Planned Development Zone, P-D(564) to allow 24,925 square feet of office, a 7,350 square foot restaurant, and a 8,625 square foot financial/retail building as provided in the C-1 Zone on property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, Modesto City Council Resolution No. 2004-045, adopted by the Council on January 13, 2006, approved a development plan for Planned Development Zone, P-D(564), and contained the conditions of approval thereof, and

WHEREAS, the Planning Commission by Resolution No. 2006-46, adopted on January 19, 2006, approved a revised development schedule, construction to begin on or before January 13, 2007, and be completed by not later than January 13, 2009, and

WHEREAS, the Modesto City Council, by Ordinance No. 3424-C.S., adopted on September 5, 2006, and which became effective on October 12, 2006, approved an amendment to P-D(564) to allow a restaurant with a pub as permitted in the C-2 Zone on property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, a Modesto City Council Resolution No. 2006-563, adopted on September 5, 2006, approved a revised development plan for P-D(564), and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(564), was filed by Ted Brandvold on April 23, 2007, to allow retail and office
uses as permitted in the C-1 Zone in Buildings B,C, D and E, property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, after a public hearing held on September 10, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-35, that the amendment to Planned Development Zone, P-D(564), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed amendment to P-D(564) is consistent with the current General Plan land use designation for the site.

2. The conditions of approval will ensure that the proposed retail uses are compatible with the adjacent office and residential uses.

3. The proposed retail uses will provide much-needed retail uses in an underserved portion of the community.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Ted Brandvold for an amendment to Planned Development Zone, P-D(564), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-35 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3458-C.S. on the 23rd day of October, to allow retail and office uses as permitted in the C-1 Zone in Buildings B, C, D and E.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 2006-563 entitled "A Resolution Amending
Sections 1 and 2 of Resolution No. 2004-045 entitled ‘A Resolution Approving a Development Plan for Planned Development Zone, P-D(564),’ (Soelling).’ (Ismail)” are hereby amended to read as follows:

“SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(564), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Eastgate Center: Amendment to P-D(564)” as amended in red, stamped approved by the City Council.

2. Prior to the issuance of a building permit, all signs shall be approved by the Community and Economic Development Director or designee. All signs located along the south or west elevations of Buildings C, D, and E abutting residential uses shall be illuminated in such a manner as to prevent impacting adjoining residences. Signs with back-lit, individual channel letters are encouraged; while canister style lighting is discouraged.

3. Prior to application for a building permit for any use in Buildings B, C, D or E, or any expansion of use in Building A, that generates a parking requirement that is greater than one space for every 300 square feet of building area, approval by the Planning Commission shall be required. The applicant shall demonstrate to the satisfaction of the Planning Commission that the center will have adequate parking with the addition of the proposed use.

4. Prior to issuance of building permits for Buildings D and E, a photometric lighting plan shall be submitted for review and approval by the Community and Economic Development Director. Fixtures should be of a type or adequately shielded so as to prevent glare from normal viewing angles. Said plans shall include specifications of the proposed lighting fixtures and demonstrate adequate shielding of the lighting fixtures so that there is no glare or light spillage upon neighboring residents south of the project site. Light fixtures located on the southern portion of the project site, adjacent to residences are strongly discouraged. The Lighting fixtures shall be allowed up to 25 feet above grade at the discretion of the Community and Economic Development Director.

5. At no time shall pedestrian access be made available from the Eastgate Center to Kendall Avenue.

6. Prior to issuance of building permits for Buildings C, D and E, all required parking shall be completed for the entire site.

7. 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.

8. All conditions of City Council Resolution Nos. 2004-045 and 2006-563 not in conflict with this action shall remain in full force and effect.”

9. The reciprocal accessway to the adjacent property to the South ("reciprocal accessway") shall be temporarily closed by and at the sole cost of the property owner and developer of P-D(564) in manner determined by and approved by the Community and Economic Development Director ("Director") or designee until the entire parking lot as shown in the plot plan and elevations titled “Eastgate Center: Amendment to P-D(564)” as amended in red, stamped approved by the City Council (“parking lot”) has been constructed. At the time that the parking lot has been constructed, the reciprocal accessway shall be reopened by and at the sole cost of the property owner and developer of P-D(564) in a manner determined by and approved by the Director or designee. The reciprocal accessway shall be reviewed by the Director or designee six months after reopening to determine whether the reciprocal accessway should remain open or should be closed permanently. If the Director or designee determines that the reciprocal accessway should be closed permanently, the reciprocal accessway shall be closed permanently by and at the sole cost of the property owner and developer of P-D(564) in a manner determined by and approved by the Director or designee.

“SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(564):

That the entire construction program shall be accomplished in one phase, construction to begin no later than October 23, 2009, and be completed by not later than October 23, 2010.”

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.
SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance amending P-D(564) becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Hawn, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Dunbar, Keating, O’Bryant

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Community & Economic Development Department
Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-618

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN
THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN
AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT
(SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE,
P-D(564), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF
BRIGGSMORE AVENUE AND OAKDALE ROAD (BRANDVOLD)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified
the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041)
for the Modesto Urban Area General Plan, and

WHEREAS, Ted Brandvold has proposed an amendment to Planned Development
Zone, P-D(564), to allow for retail uses on the site, property located at the southwest
corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing
subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial
Study on any proposed subsequent project to analyze whether the subsequent project may
cause any significant effect on the environment that was not examined in the Master
Environmental Impact Report and whether the subsequent project was described in the
Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department by
Environmental Assessment Initial Study EA/C&ED 2007-35 ("Initial Study") reviewed
the proposed amendment to P-D(564) to determine whether the project is within the
scope of the project covered by the Modesto Urban Area General Plan Master EIR
("Master EIR"), and concluded that the proposed project is within the scope of the Master
EIR and will have no additional significant effect on the environment that was not
identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on September 29, 2007 the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(564), a copy of which is attached hereto as Exhibit “A”, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures. Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.
BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O’Bryant

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
City of Modesto

Finding of Conformance to
General Plan Master EIR:

Initial Study Environmental Checklist
C&ED No. 2007-35

For the proposed:

Planned Development Amendment for P-D(564)
Application No. P-PDA-07-005

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

August 2007
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the proposed project for P-D(564) is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH # 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and
2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Planned Development Amendment for P-D(564)

B. Address or Location: Southwest corner of Brigsgmore Ave. and Oakdale Road

C. Applicant: Ted Brandvold, 1300 10th Street, Suite B, Modesto, CA, 95354

D. City Contact Person: Rebecca Cremeen

Project Manager: Rebecca Cremeen
Department: Community and Economic Development Department
Phone Number: (209) 571-5505
E-mail address: rcremeen@modestogov.com

E. Current General Plan Designation(s): MU

F. Current Zoning Classification(s): P-D(564)

G. Surrounding Land Uses: North: Brigsgmore Avenue
South: Single Family Residential/Medical Office
East: Oakdale Road
West: Single Family Residential
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

This is an application for an amendment to the previously approved Planned Development Zone P-D(564). The amendment request is to permit retail uses as permitted in the C-1 zone district on the entire site. Retail uses are currently limited to Buildings C and D on the approved site plan.

I. Other Public Agencies Whose Approval is Required: None

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New
or additional mitigation measures are being required of the project that will reduce
the effects to a less-than-significant level.

3. **Focused EIR Required**- On the basis of the above determinations, the project is not
within the scope of the Master EIR. A Focused EIR will be prepared for the project. The
following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master
EIR have been applied to the project or otherwise made conditions of approval of the
project.

C. The project will have one or more new significant effects on the environment that
were not addressed as significant effects in the Master EIR. New or additional
mitigation measures or alternatives are required as a result.

Project Manager

Planner

Date
4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. X  

(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. X

(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR). X

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources. X

(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan. X

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR. X

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. X

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: X

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified. X
IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City's obligation in that situation.

All environmental effects cited reflect year 2025 buildout of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.
**Effect:** Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

**Effect:** Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project — including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

**Significance Criteria:** A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="#">(1) The project exceeds the Master EIRs traffic generation assumptions for this site and City Engineering and Transportation staff has determined that the project would have additional project-specific effects that are not avoided or reduced by the Master EIRs program of mitigation measures.</a></td>
<td>X</td>
</tr>
<tr>
<td><a href="#">(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).</a></td>
<td>X</td>
</tr>
<tr>
<td><a href="#">(3) Result in inadequate emergency access.</a></td>
<td>X</td>
</tr>
<tr>
<td><a href="#">(4) Result in inadequate parking capacity.</a></td>
<td>X</td>
</tr>
</tbody>
</table>

**Discussion:**

(1) Engineering and Transportation Staff reviewed the proposed project and noted that the amendment to the uses on-site would result in an additional 45 vehicle trips during the PM peak hour, which equates to less than one (1) vehicle trip per minute. This is not a significant increase in traffic. Further, the traffic levels are consistent with the assumptions made under the Master EIR; therefore, no traffic study is required and no site access study is required for the project.

(2) The changes proposed in the site layout do not significantly change the on-site circulation. No changes are proposed to the site’s ingress/egress from Briggsmore and Oakdale Avenues. Therefore, the project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project, as conditioned, is in
accordance to City standards.

(3) Fire and Police Staff have reviewed this proposal and have not indicated that there is an emergency access problem. The project meets the City's Standards with regard to the maneuverability of emergency vehicles, provided hydrant and FDC locations are provided in the appropriate locations. This can be accommodated by the proposed site plan and will be handled at the time of the issuance of a building permit.

(4) Based on the proposed changes in use to the allow retail uses consistent with the C-1 zone district, a minimum of 186 parking spaces are required. This number reflects the restriction of the following uses on-site, in accordance with the conditions of approval applicable to the proposed amendment: restaurant uses in Buildings A, B, D and E; medical office uses in buildings A, B, C and D; and, convenient store/mini-market uses within any building on-site. The project proposes 222 parking spaces and therefore meets City Standards for number of parking spaces required on-site.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:
The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District’s (SJVUAPCD) adopted CEQA Guidelines.

The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.

The project does not comply with the air quality policies of the Modesto Urban Area General Plan.

The project would expose sensitive receptors to substantial pollutant concentrations.

The project would create objectionable odors affecting a substantial number of people.

Discussion:

(1) The project is within the scope of the Master EIR for traffic related impacts. Therefore, it should be within the scope of the Master EIR for CO and NOx emissions in that these pollutants are traffic induced.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it is an office/retail complex. Thus, the main source of pollution that would come with the development is traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related pollution concentration impacts. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measure listed above.

(5) The development should not produce objectionable odors; in that office/retail buildings generally do not.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:
Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.</td>
<td></td>
<td>☒ X</td>
</tr>
<tr>
<td>(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>☒ X</td>
</tr>
<tr>
<td>(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td></td>
<td>☒ X</td>
</tr>
<tr>
<td>(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.</td>
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<td>☒ X</td>
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</tbody>
</table>

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with what the General Plan assumed for the site both in land use and intensity and is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.
(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measure applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>City of Modesto Finding of Conformance</td>
<td></td>
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<tr>
<td>General Plan Master EIR</td>
<td></td>
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</tbody>
</table>

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August 2007
(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X

(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. □ X

(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. □ X

(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. □ X

Discussion:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural land will be converted.

(2) The project is within the baseline-developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture, nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively
considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: WS-11

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. X

(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and
Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

**Effect:** The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

**Note on the WMP Master EIR.** The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

**Discussion:**

There are no mitigation measure applicable to this project.

**c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

**Discussion:**

City of Modesto Finding of Conformance
General Plan Master EIR
Initial Study
EAVC&ED 2007-35
August 2007
(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Public Works for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measure applicable to this project. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.
(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures applicable to this project include: AH-12, Master EIR.

c. Project-Specific Effects
Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm
events would have to be interrupted until water levels receded to a point allowing the
resumption of discharges to the channel. Ceasing discharges to drainage channels could cause
inundation in and around the drainage conveyance pipeline systems, surface drainage
channels, detention basins, and other urban areas. This cumulative impact is considered
significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study
are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be
incorporated into or made conditions of approval of this project are listed in Section V, Mitigation
Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the
General Plan; the following is an analysis of whether the proposed project would result in a new,
significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific
effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
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</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or off-site.

(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The proposed changes to the site plan would not result in a substantial increase in impervious surfaces beyond what was previously approved. The project will be designed to meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City and applied.
to the project as a Mitigation Measure. With the application of the appropriate mitigation, the effect will be less than significant.

(3) The proposed changes to the site plan would not result in a substantial increase in impervious surfaces beyond what was previously approved and would not contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval for the project, the effect will be less than significant.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:
Discussion:

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>x</td>
</tr>
<tr>
<td>(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>x</td>
</tr>
<tr>
<td>(3) The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.</td>
<td>x</td>
</tr>
<tr>
<td>(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.</td>
<td>x</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the General Plan Designation for the site both in land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff. The appropriate mitigation measures will be applied to the project.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

City of Modesto Finding of Conformance
General Plan Master EIR 20

Initial Study
EAVC&ED 2007-35
August 2007
Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
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<tbody>
<tr>
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<td>X</td>
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</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school
students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

\[
\begin{array}{c|c|c}
\text{YES} & \text{NO} \\
\hline
(1) & \text{The project is inconsistent with the Modesto Urban Area General Plan.} & \checkmark \\
(2) & \text{The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures, which provide that compliance results in less-than-significant impacts on schools.} & \checkmark \\
\end{array}
\]

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project includes no residential student-gathering component.
13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan.  

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.
The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

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<thead>
<tr>
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<th>YES</th>
<th>NO</th>
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<tr>
<td>(1)</td>
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<td>X</td>
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<td>(2)</td>
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<td>X</td>
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</table>
significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X

(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. □ X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Public Works Department for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(3) The project contains a contaminated site not identified as of March 2003.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td></td>
<td>X</td>
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<tr>
<td>(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.</td>
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<td>X</td>
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Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste. It is an office complex.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

**Effect:** There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.
Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

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</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.
(2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.
(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:
Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
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<tbody>
<tr>
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<td>X</td>
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</tbody>
</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

19. PLANNING AND LAND USE
The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project includes a substantive amendment to the Modesto Urban Area General Plan. □ X
(3) The project would physically divide an established community □ X

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.
(2) No amendment to the General Plan is required by this project.
(3) The project will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project would have a substantial adverse effect on a scenic vista. □ X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. □ X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. □ X
Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

B. New or Additional Mitigation Measures or Alternatives Required

Where the project’s effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

Traffic and Circulation Measures:

N/A

Air Quality Measures:
1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

5. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

6. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

7. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;

8. Suspend excavation and grading activity when winds exceed 20 mph; and

9. Limit the area subject to excavation, grading and other construction activity at any one time.

**Noise Measures:**

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

   A. A hammer, or any other device or implement used to pound or strike an object.

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.
D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

Agricultural Land Measures:
N/A

Water Supply Measures:
1. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

Sanitary Sewer Service Measures:
N/A

Sensitive Wildlife and Plant Habitat Measures:
N/A
Archaeological or Historic Sites Measures:

1. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K.

Storm Drainage Measures:

1. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

2. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:

1. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

2. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A
Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-619

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(582) (HUFF CONSTRUCTION)

WHEREAS, a verified application for an amendment to Section 29-3-9 of the Zoning Map was filed by Huff Construction on March 29, 2007, to reclassify from General Commercial Zone, C-2, to Planned Development Zone, P-D(582), to allow a mixed-use development combining commercial retail and office with condominium residential units and parking in a new eight-story building, property located at 1324 J Street, described as follows:

C-2 to P-D(582)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the southeast quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Lots 1 thru 7 in Block 106 as shown on that Map of City of Modesto Block 106 filed in Volume 15 of Maps, Page 106, Stanislaus County Records; and

also including those portions of the southwesterly half of 14th Street, the southeasterly half of J Street, and the northeasterly half of the alley, being immediately adjacent to the above described property and extended to the intersections of said streets and alley.

WHEREAS, at a public hearing held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-41, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezone is consistent with the City’s Redevelopment Master Plan, which encourages higher density, vertical mixed-use development in the downtown area; and
2. The proposed rezone is consistent with the Urban Area General Plan of the City of Modesto, because the project is consistent with the land use designation of Commercial/Residential/Public (CRP) for the site within the Redevelopment Planning District (RPD) in both type and intensity.

3. The project will comply with the City’s adopted Design Guidelines for Commercial and Industrial Development and will meet the requirements of the Municipal Code, including in particular the minimum requirements for on-site parking; and

4. The recommended conditions of approval will further insure that the proposed project will be compatible with surrounding development.

WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Huff Construction for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-41 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3459-C.S. on the 23rd day of October, 2007, reclassifying the above-described property from General Commercial Zone, C-2, to Planned Development Zone, P-D(582),

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(582), is hereby approved subject to the following conditions:

1. All development shall conform to the Planned Development drawings titled "Mixed-Use Building, 14th & J Streets" as amended in red, stamped approved by the City Council.

2. Prior to sale of a condominium unit, a subdivision map shall be recorded.
3. The development shall be limited to no more than 45 dwelling units.

4. One dedicated pair of ‘stacked’ parking spaces shall be provided for each dwelling unit in the development. The handicap accessible unit, which is required by law, may be excepted from this condition, since there is an un-stacked handicap accessible parking space provided for said unit.

5. Prior to the issuance of a building permit, annexation to the appropriate schools community facilities district will be required to the extent allowed by State law. If this requirement cannot be enforced due to the status of State law, then prior to issuance of a building permit, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.

6. Prior to the issuance of a building permit, final design of the southeast elevation of the building (on the property line adjacent to 915–14th Street) as to architectural treatments which will provide improved articulation on that side of the building, together with the final selection of colors and materials for the building overall, shall be to the satisfaction of the Community & Economic Development (C&ED) Director.

7. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Department Director or designee. The landscaping and irrigation system shall be installed and maintained in accordance with the approved plan.

8. Prior to the issuance of a building permit, the development shall include improvements to the surrounding streetscape, including but not limited to sidewalks, street trees, and lighting, in accordance with the Downtown Improvement District and City Standards to the satisfaction of the City Engineer.

9. Prior to the issuance of a building permit, improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

10. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee. The specific public improvements required for this development include (but may not be limited to) reconstruction of the 20-foot alley.

11. Access from the parking garage to the alley shall be for service and emergency vehicles only.
12. The new driveway on 14th Street to serve the parking garage shall be designed per City of Modesto Standard Specifications to the satisfaction of the City Engineer.

13. Prior to certificate of occupancy, all damaged or deteriorated curb, gutter, sidewalk, and other existing public improvements at the project site shall be repaired or replaced as required for the public health and safety as determined by the City Engineer or designee in accordance with City of Modesto Standard Specifications.

14. Prior to the issuance of a building permit, the developer shall obtain approval of the City Engineer for sewer connection. Sewer connections shall be designed to meet City Standard Specifications and to the satisfaction of the City Engineer.

15. Prior to the issuance of a building permit, the developer shall obtain approval of the City Engineer for the stormwater connection to the City stormwater system. The developer shall demonstrate that the proposed connection will not adversely affect upstream and downstream capacity of the City stormwater line or cause back up in the stormwater line.


17. Prior to the issuance of a building permit, the developer shall provide an owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater, for recording, if treatment system is required.

18. Prior to the issuance of a building permit, the developer shall obtain coverage for the project under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB), as follows:
   a. To obtain coverage under the General Permit, a Notice of Intent (NOI) shall be filed with the SWRCB. Submit one copy of the NOI to Development Services, Stormwater, when filed.
   b. The General Construction Permit requires the Developer to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for project. Submit one copy of SWPPP to Development Services, Stormwater, for review.

19. If a restaurant or other food service facilities are planned for this development, there may be additional stormwater requirements.

20. Prior to the issuance of a building permit, developer should provide for separate plumbing to the sanitary sewer to accommodate any grease generating uses (such as restaurants), medical procedure waste, or similar
establishments identified as having wastewater pretreatment requirements to provide suitable monitoring and capture of potential wastewater discharges that impact the system.

21. Prior to the issuance of a building permit, the project shall meet all conditions applicable to high-rise buildings in Chapter 4 of the 2001 California Building Code, if the proposed building will have floors used for human occupancy located more than 75 feet above the lowest floor level having building access.

22. Prior to the issuance of a building permit, all on-site and off-site improvements shall be approved by the Fire Prevention Bureau as they relate to Fire Department access, fire flow requirements, and the location and type of fire appliances, including hydrants and other connections.

23. Prior to the issuance of a building permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

24. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be dedicated as required.

25. The covenants, conditions and restrictions (CC&Rs) pertaining to the development shall provide, among other things, that utility service lines, facilities, and equipment may be installed on or through dwelling units to serve other dwelling units in the project as required by utility companies serving the project, and that said utility companies shall have a right of access to all lots, units, and buildings where necessary to perform the required maintenance and repair.

26. Signs shall be allowed in accordance with the requirements of the C-2 zone, subject to compliance with the Design Guidelines for Commercial and Industrial Development, adopted September 12, 2006.

27. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

28. 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.
In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

29. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

30. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

31. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

32. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.

33. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

34. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

35. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

36. Following the addition of materials to, or the removal of materials from, the surface of any outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

37. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to manufacturers recommendation. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
38. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or federal holidays):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current or direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
39. Prior to the issuance of a building permit, developer shall provide to the satisfaction of the Community & Economic Development Director an evaluation, prepared by a qualified architectural historian, of any structures more than 50 years old that are located within 100 feet of the proposed construction, said evaluation to be used by the City to determine and require measures to be implemented as appropriate to preserve those structures and places it deems to be historically significant.

40. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.

41. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

42. The developer shall conduct the appropriate geotechnical analysis to ascertain site-specific subsurface conditions relevant to foundation stability and seismic safety.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(582):

The entire construction program shall be accomplished in one phase, construction to begin on or before October 23, 2010 and completion to be not later than October 23, 2011.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.
SECTION 5. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(582), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Community & Economic Development Department Planning Division
A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 29-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL ZONE, C-2, TO PLANNED DEVELOPMENT ZONE, P-D(582), PROPERTY LOCATED AT 1324 J STREET. (HUFF CONSTRUCTION)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Huff Construction has proposed that the zoning designation for property located at 1324 J Street, be amended to rezone from General Commercial Zone, C-2, to Planned Development Zone, P-D(582), to allow a mixed-use development combining commercial retail and office with condominium residential units and parking in a new eight-story building, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City’s Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED No. 2007-32 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project to determine whether the project is within the scope of the project covered by the
Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines, on September 29, 2007, the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2007-41 recommended to the City Council approval of the application of Huff Construction to amend Section 29-3-9 of the Zoning Map to rezone from General Commercial Zone, C-2 to Planned Development Zone, P-D(582), for the property located at 1324 J Street, to allow a mixed-use development combining commercial retail and office with condominium residential units and parking in a new eight-story building, as set forth in said Resolution No. 2007-41, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing, which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezone to Planned Development Zone, P-D(582), a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:
1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made Conditions of Approval of the project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. Based on the Initial Study, the City of Modesto finds and determines:
   a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR;
   b. No new or additional mitigation measures or alternatives are required; and
   c. The project is within the scope of the MEIR.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood, City Attorney
EXHIBIT A

Initial Study

EA/C&ED No. 2007-32
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2007-32

For the proposed:

14th & J Street Mixed-Use Project
Planned Development and Tentative Subdivision Map P-PDZ-07-001 and P-TSM-07-004
(Huff Construction, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

September 7, 2007
City of Modesto
Master EIR Initial Study Environmental Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether Planned Development P-PDZ-07-001 & Tentative Subdivision Map P-TSM-07-004 is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: 14th & J Street Mixed-Use Project
   Planned Development & Tentative Subdivision Map

B. Address or Location: 1324 J Street, Modesto, CA

C. Applicant: Huff Construction Company, Inc
   4917 Stoddard Road, Modesto, CA 95354

D. City Contact Person: Philip Reed

Project Manager: Philip Reed, Associate Planner
Department: Community & Economic Development Department
Phone Number: (209) 577-5267
E-mail address: preed@modestogov.com
E. Current General Plan Designation(s): project site is within the Redevelopment Planned District (RPD), with land use designation Commercial/Residential/Public (CRP), allowing for mixed use development and infill.

F. Current Zoning Classification(s): (C-2) General Commercial Zone

G. Surrounding Land Uses: North: (C-2) commercial office and parking
   South: (C-2) commercial office and parking
   East: (C-2) residence converted to office
   West: (C-2) commercial office and parking

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

Rezoning the site from General Commercial (C-2) to Planned Development (P-D) accommodates a proposed mixed-use project comprising approximately 15,000 square feet of commercial retail and professional office space together with 45 dwelling units and a parking garage within a new 8-story building. This new building will entirely replace the existing development of the site, which consists of a small professional office built in 1964 and surface parking lot. The tentative subdivision map provides for condominium air space lots to allow independent ownership of each dwelling unit.

I. Other Public Agencies Whose Approval is Required: none.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. X. Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:

       a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

       b) No new or additional mitigation measures or alternatives are required.
E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

---

Project Manager: [Signature]

ASSOCIATE PLANNER: [Signature] 9/7/2007

City of Modesto Finding of Conformance

General Plan Master EIR

Initial Study

EA/C&ED No. 2007-32

July 27, 2007
4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

(1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.

(2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template.

(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.

(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.

City of Modesto Finding of Conformance
General Plan Master EIR

Initial Study
EA/C&ED No. 2007-32
July 27, 2007
(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.  

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.

Discussion:

(4) The City completed a Collection System Master Plan Update and Wastewater Treatment Master Plan Update in 2006, and a city-wide long term water supply analysis in 2007. These studies identified deficiencies in the existing systems, capacity and supply, to accommodate the anticipated future growth of the City's urban area. The necessary improvements to these systems were also identified, including the expansion and upgrade of various wastewater collection and treatment facilities, and implementation of a long term program for securing and developing additional water supplies. In order to finance these new infrastructure investments, the City adopted in 2007 new water and wastewater connection fees. These increased fees will apply to the project. Therefore, policies remain in place, as described in (5) above, that require site-specific mitigations (that is, increased fees) which compensate for the impacts identified.

IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause project-specific significant effects on the environment that were not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR. Adoption of a notice of conformity after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.
1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

Effect: Increased traffic will result in certain roadway segments operating at LOS D or worse.

Effect: The Substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of an LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that are pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section V, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

YES NO

(1) Project would contribute one hundred (100) or more peak hour trips to or from the site during an adjacent roadway's peak hour or the development's peak hour to adjoining roads, and it generates more trips than assumed for the general plan land use category and zoning in the Master EIR. □ X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Traffic Engineering staff, a comprehensive traffic study would be required, including off-site traffic impact analysis.
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). ☐ X

(3) Result in inadequate emergency access. ☐ X

(4) Result in inadequate parking capacity. ☐ X

Discussion:

(1) Traffic Engineering Division of the Public Works Department has reviewed the project and determined that it is within the scope of the Master EIR and no further traffic study is required. This conclusion is based upon the following:

a) The project as proposed would generate 77 peak hour vehicle trips, which is less than the 100 peak hour trip threshold that would trigger requirement of a traffic study;

b) The number of vehicle trips would be further reduced by the by-pass rate, the internal trip capture rate, and credit for the existing trip generation from the project site's current use, to a net peak hour trip generation of only 41 vehicle trips;

c) Because the downtown area is fully developed, trip generation would be distributed relatively equally in all four directions, which translates into approximately 10 trips at the next signalized intersection in any direction, or one vehicle every 360 seconds (that is, one vehicle every fourth traffic signal cycle, since downtown signals are on a 90-second cycle length). One additional vehicle every fourth signal cycle is not considered significant at any nearby intersections in downtown Modesto.

The project site is located at the shared corner of four Traffic Analysis Zones (TAZs): 295, 296, 335, and 348, as identified in Appendix F of the Final Master EIR for the City of Modesto Urban Area General Plan. In the General Plan model, the combined area of these four TAZs are projected to have 268 single-family units and 394 multi-family units, for a total of 662 dwelling units by the year 2025. This total translates into an estimate of 1893 residents within this combined area by the year 2025, based on the average of 2.86 persons per dwelling unit assumed in Appendix F. According to block level data available from the 2000 Census, the existing number of residents within the combined area of the four TAZs is 501. Adding the estimate of 129 new residents generated by the 45 condominium dwelling units proposed by the project gives a total of 630 residents in the combined area, which falls within the projection assumed for the General Plan.

Therefore the project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area. This intensity includes in particular the number of dwelling units proposed by the project and the increase in number of residents that they represent.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses.

(3) Police and Fire staff have reviewed this proposal. The project will not result in, cause, or provide inadequate emergency access.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The project will provide all required parking on site in compliance with both City standards and ADA (Americans with Disability Act) standards.
2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

These are also cumulative impacts on air quality.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. ☐ ☒

(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD. ☐ ☒

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan. ☐ ☒

(4) The project would expose sensitive receptors to substantial pollutant concentrations. ☐ ☒

(5) The project would create objectionable odors affecting a substantial number of people. ☐ ☒
Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not exceed their Thresholds of Significance for these emissions. In that the project creates new housing within the established urban area of the City, it has the potential to reduce commute distances for the residents who live there and help mitigate the effects of longer commutes from outlying areas.

(2) This project incorporates the best management practices for PM10 reduction established by the SJVUAPD (see mitigation measures above).

(3) Applicable General Plan Policies will be applied to the project; therefore, project-specific effects will be less than significant for this impact (see mitigation measures above).

(4) The project is not a significant contributor to pollution levels in that it consists of mixed use residential with retail commercial office; therefore, the primary source of pollution associated with the development would be traffic related. Since the traffic impacts are within the scope of the MEIR, so are the traffic-related air quality impacts. The PM10 emissions created through the construction phase will be mitigated as called for by the MEIR with the mitigation measure listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceeding the City's Noise Significance Standards (see Table 3-3 of the MEIR).

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. and any new measures are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: N-4, N-5, N-6, and N-9.

c. Project-Specific Effects
Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

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(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.

(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.

(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The project is located between the $L_{90}$ 60 and 65 contours, as depicted in Figure VII-1 of the City's Urban Area General Plan showing the most recent noise contours for the City, and is therefore within the maximum acceptable noise level for single family residential use. Noise mitigation measures called for by the General Plan for projects within the Baseline Developed Area (and the Redevelopment Area), are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the Baseline Developed Area (and the Redevelopment Area), are incorporated into the conditions of approval for the project.

4. **AGRICULTURAL LANDS**

a. **Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

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Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto’s planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 of the MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project will directly result in the development of land outside the March 2003 planning area boundaries. ☐ X

(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. ☐ X

(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to some other non-agricultural use. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is located within the Redevelopment Area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.
(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is located within the Redevelopment Area of the City and is therefore completely surrounded by developed urban area. Furthermore, the project would provide new housing within this established urban area and would therefore help relieve the demand for new housing without increasing pressure for new development of land outside the March 2003 planning area boundaries that could result in the conversion of farmland to non-agricultural uses.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area. This intensity includes in particular the number of dwelling units proposed by the project and the increase in number of residents that they represent.

(2) An amendment to the General Plan is not required by this project.

(3) The project is infill development which will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

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Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) There are no existing scenic vistas from the location of the proposed development. It is completely surrounded by urbanization, and views of prominent natural features such as the Diablo and Sierra Mountain Ranges are already precluded from this site and the adjacent and surrounding properties. New views of the surrounding landscape will be provided from upper floors of the new development.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. The new development will comply with the City's adopted Design Guidelines.
The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

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<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.  X</td>
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</table>

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

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<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.  X</td>
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<tr>
<td>(2) The project includes a substantive amendment to the Modesto Urban Area General Plan.  X</td>
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<tr>
<td>(3) The project would physically divide an established community  X</td>
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</table>
c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

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(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The requirement for geotechnical analysis as appropriate, together with application of the adopted Uniform Building Code (UBC) and its seismic requirements, will insure that soil and other subsurface conditions related to foundation stability will be assessed and accommodated in the design of the project such that it would not become unstable or cause on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build-out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project
(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures applicable to the project include: LSA-8, LSA-9, LSA-11, of the Master EIR.
16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

**Effect:** The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

**Discussion:**

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>Threshold</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(3) The project contains a contaminated site not identified as of March 2003.</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
Effect: It is projected that by 2025, the City will generate 1.5 million tons of solid waste requiring disposal in a landfill. Stanislaus County and its other cities are projected to generate another 3.3 million tons, for a total of 4.8 million tons requiring disposal. This total takes into consideration current diversion rates and use of the Stanislaus Resource Recovery Facility (SRRF) waste-to-energy facility for the majority of solid waste that is not source reduced, recycled, or composted. At the current loading rate, the Fink Road Landfill has a remaining life of 41 years. This landfill's remaining capacity of 6 million tons can accommodate the projected combined total of 4.8 million tons, and some of this projected total may go to other landfills. Since build-out under the Urban Area General Plan would not exceed the existing landfill capacity, and a 129-acre future expansion of the landfill has been approved, its potential impact on solid waste disposal is considered less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
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<tr>
<th>YES</th>
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</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.

(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Polices for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.
The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X

(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. □ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is located within the Redevelopment Area, which is already developed with the necessary infrastructure and services; the project would not, therefore, result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:
b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project
Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) The project is inconsistent with the Modesto Urban Area General Plan.</td>
</tr>
<tr>
<td>(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.</td>
</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project. The appropriate school impact fees will be assessed on all construction.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.
Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

\[
\begin{array}{c|c}
\text{YES} & \text{NO} \\
\hline
(1) & \text{The project is inconsistent with the Modesto Urban Area General Plan.} \\
\end{array}
\]

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan. ☐ X
2. The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act. ☐ X
3. The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures. ☐ X
4. The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ X

Discussion:

1. The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.
2. The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.
3. Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.
4. The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project, and the replacement of surface parking lot drainage with rooftop drainage should help limit further pollution of runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project
10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

**Effect:** Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

**Effect:** The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City’s implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

**Effect:** The City’s future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

**Discussion:**

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐ X

(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite. ☐ X

(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project will meet the standards contained in the “Guidance Manual for New Development-Storm Water Quality Control Measures,” adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project, since there will be no net increase in runoff generated.
(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) There are four (4) properties within an approximately one block radius of the project site that are designated Landmark Preservation Sites or determined to be of historical interest by the Landmark Preservation Commission and Redevelopment Agency:

- Abel & Ellman Office, 1015-14th Street
- Davis-Hatton House, 909-14th Street
- State Theatre, 1307 J Street
- McHenry Museum, 1402 I Street

The second of these (the Davis-Hatton House, 909-14th Street) is located less than 100 ft from the project site. However, mitigation measures called for by the General Plan are incorporated into the conditions of approval for the project, and the existing building on the project site is not more than 45 years old, therefore the project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage
(3) There is no conflict with any local policies or ordinances protecting biological resources. The City of Modesto currently does not have a tree preservation policy or ordinance that applies to the Redevelopment Area or Baseline Developed Area of the General Plan, and the project site is not located within or near any riparian zone.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation Measures applicable to this project include: AH-9, AH-12, AH-13, of the Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES NO</th>
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</table>

(1) The project is inconsistent with the Modesto Urban Area General Plan.
Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>☐</td>
<td>X</td>
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<td>☐</td>
<td>X</td>
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<tr>
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</tr>
</tbody>
</table>

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan.

(2) The project site is located within the Redevelopment Area of the City and is therefore completely surrounded by developed urban area. It is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan.  
(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Public Works staff evaluated the project and determined that adequate pipe capacity and wastewater treatment plant capacity exists to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X

(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. □ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan and its Community Development Policies for the Redevelopment Planning District (RPD) in which it is located, and the project falls within the projected level of Land Use Intensity for the area.

(2) The project is within the scope of the Modesto Urban Area General Plan and will not generate demands beyond that already anticipated for the area. Public Works staff evaluated the project and determined that adequate capacity exists to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project
The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

If the Initial Study results in the determination that a Finding of Conformance can be adopted for the proposed project Section A below applies. If the Initial Study results in the determination that a Finding of Conformance cannot be adopted and a Mitigated Negative Declaration/EIR must be prepared for the project then Section B, below applies.

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1(c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project (see mitigation measures listed below).

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

2. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

3. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

4. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.

5. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.

6. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water,
chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

7. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

Noise Measures:

1. The City’s noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.” Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

2. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or federal holidays):
   a. A hammer, or any other device or implement used to pound or strike an object.
   b. An impact wrench, or other tool or equipment powered by compressed air.
   c. A hand-powered saw.
   d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
   f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
   g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
Agricultural Land Measures:
N/A

Water Supply Measures:
N/A

Sanitary Sewer Service Measures:
N/A

Sensitive Wildlife and Plant Habitat Measures:
N/A

Archaeological or Historic Sites Measures:
1. Where construction is proposed within 100 feet of any structures or areas of historical significance more than 45 years old, the City shall evaluate the proposal and require measures to be implemented to preserve those structures and places as appropriate.

2. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the CEQA Guidelines.

Storm Drainage Measures:
1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Flooding and Water Quality Measures:
1. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

Parks and Open Space Measures:
N/A

Schools Measures:
N/A

Police Services:
N/A
Fire Services:
N/A

Generation of Solid Waste
N/A

Generation of Hazardous Materials
N/A

Potential for Landslides and Seismic Activity

1. The developer shall conduct the appropriate geotechnical analysis to ascertain site-specific subsurface conditions relevant to foundation stability and seismic safety.

Energy
N/A

Planning and Land Use
N/A

Aesthetics
N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effects: none.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-621

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(581). (HABITAT FOR HUMANITY)

WHEREAS, a verified application for an amendment to Section 31-3-9 of the Zoning Map was filed by Habitat for Humanity on March 8, 2007 to reclassify from Medium High Density Residential Zone, R-3, to Planned Development Zone, P-D(581), to allow development of a 20-unit single family residential subdivision, property located at the eastern end of Houser Lane described as follows:

R-3 to P-D(581)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southeast quarter of Section 31, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:
All of Parcel B as shown on that Parcel Map Recorded in Volume 53 of Parcel Maps, Page 2, Stanislaus County Records on July 19, 2004.

WHEREAS, after a public hearing held on September 17, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-40, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed zone change to P-D(581) is consistent with the current Residential General Plan land use designation for the site.

2. The conditions of approval will ensure that the proposed project is compatible with the adjacent residential uses.

3. The proposed project will provide much-needed affordable housing in Modesto.
WHEREAS, said matter was set for a public hearing of the City Council to be held on October 23, 2007 in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Habitat for Humanity for a Planned Development Zone should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-40 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3549-C.S. on the 23rd day of October, reclassifying the above-described property from Medium-High Density Residential Zone, R-3, to Planned Development Zone, P-D(581).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development Zone, P-D(581), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled “Hope Village” as amended in red, stamped approved by the City Council.

2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

3. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

4. All private streets and parking areas shall be constructed in accordance with the standard structural section for residential streets as contained in the City of Modesto Standard Specifications.
5. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

6. All curbs within the development shall be painted red and labeled “no parking zone”.

7. Prior to approval of the Tentative Subdivision Map, a 5 foot wide public utility easement shall be dedicated along the western property boundary to allow for access to the existing 6” water line.

8. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.

9. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.

10. Trash cans shall be screened from view from any public street.

11. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

12. All utilities shall be underground and cable television service shall be stubbed into all units.

13. Window treatments shall be approved by the Community and Economic Development Department Director or designee prior to issuance of building permits for second story units on Lots 2, 3, 5, 6, 9, 10, 12, and 13.

14. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

15. Prior to the issuance of a building permit for any structure, a final subdivision map shall be recorded.

16. Prior to City Council approval of a final subdivision map the subdivider shall submit for approval by the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions which are to be recorded to create a Homeowner’s Association (HOA) which shall guarantee continued maintenance of common facilities in the development including: the private street, guest parking area and hardscape, and landscaping (lot “A”). The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. The covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.
17. Prior to issuance of a building permit, the developer shall enter into an agreement with the City of Modesto pursuant to construction and maintenance of the dwelling units for very-low-income households and other incentives as required by Chapter 3 of Title X of the Modesto Municipal Code.

18. The State Water Control Board and City of Modesto require a Storm Water Pollution Prevention Plan (SWPPP) to be developed prior to construction activity. A copy of the notice of intent (NOI) and SWPPP shall be required to obtain a grading permit if required by the Public Works Director or designee.

19. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

20. 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.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone P-D(581):

The entire construction program shall be accomplished in one phase, construction to begin on or before January 31, 2009 and completion to be not later than January 31, 2013.

SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict
adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code
relating to Planned Development Zones and other applicable City laws, rules, regulations
and procedures.

SECTION 5. EFFECTIVE DATE. This resolution shall not become effective
unless and until the ordinance reclassifying the above-described property to Planned
Development Zone, P-D(581), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of
the City of Modesto held on the 23rd day of October, 2007, by Councilmember Hawn,
who moved its adoption, which motion being duly seconded by Councilmember Olsen,
was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris
JEAN MORRIS, City Clerk
(SEAL)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By Community & Economic Development Department
Planning Division
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-622

A RESOLUTION APPROVING AN AGREEMENT TO CONSTRUCT IMPROVEMENTS AND GRANT REVOCABLE LICENSE BETWEEN CALIFORNIA EQUITY MANAGEMENT GROUP INC. AND THE CITY OF MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEES, TO EXECUTE THE AGREEMENT

WHEREAS, California Equity Management Group Inc. and the City of Modesto have worked together to reach agreement on a formal Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, the Agreement to Construct Improvements and Grant Revocable License includes, but is not limited to, the cost of licensing the right-of-way, maintenance of facilities located in the right-of-way, liability insurance coverage and a closure plan, and

WHEREAS, improvements shall be constructed as shown on the Improvement Plans and approved by and on file with the City’s Engineer, and the Landscape Improvement Plans approved by and on file with the City’s Parks, Recreation and Neighborhoods Department, and

WHEREAS, California Equity Management Group Inc. shall cause all improvements to be made, constructed and dedicated to fully comply with the requirements of the Modesto Municipal Code, the Improvement Plans, the Landscape Improvement Plans, and any changes or alterations in such work as may be required by the City Engineer.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement to Construct Improvements and Grant Revocable License between California Equity Management Group Inc. and the City of Modesto.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By 
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-623

RESOLUTION AMENDING SECTION 1 AND 2 OF RESOLUTION NO. 85-240
ENTITLED ‘A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR
PLANNED DEVELOPMENT ZONE, P-D(371), (ROBERT L. ERICKSON).’ AS
PREVIOUSLY AMENDED BY RESOLUTION NO. 2006-056 (L STREET
ARCHITECTS FOR CALIFORNIA EQUITY MANAGEMENT GROUP INC.)

WHEREAS, Planned Development Zone, P-D(371), was approved by the City
Council by Ordinance No. 1616-C.S., which became effective on June 1, 1977, to allow the
addition of a Family Amusement Machine Center to be added on property located on the
south side of Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue, and

WHEREAS, Modesto City Council Resolution No. 77-435, which was adopted
on May 2, 1977, approved the development plan for Planned Development Zone,
P-D(159), and

WHEREAS, the City Council, by Ordinance No. 2173-C.S., which was adopted
on February, 15, 1983, and which became effective on March 17, 1983, amended Planned
Development Zone, P-D(159), to allow an outdoor bicycle race course, and

WHEREAS, Modesto City Council Resolution No. 83-75, which was adopted on
February, 15, 1983, approved an amendment to the development plan for Planned
Development Zone, P-D(159), to allow an outdoor bicycle race course, and

WHEREAS, the City Council, by Ordinance No. 2327-C.S., which was adopted
on May 7, 1985, and which became effective on June 6, 1985, amended Section 18-3-9 of
the Zoning Map to rezone Planned Development, P-D(159), to Planned Development
Zone, P-D(371), to allow a mini-storage facility as a permitted use, and
WHEREAS, the City Council, by Ordinance No. 3388-C.S., which was adopted on April 26, 2005, and which became effective on May 27, 2005, amended Planned Development Zone, P-D(371), to allow all uses as permitted under the C-2 Zone, and

WHEREAS, Modesto City Council Resolution No. 2005-219, which was adopted on April 26, 2005, approved an amendment to the development plan for Planned Development Zone, P-D(371), to expand the list of allowed uses to include all uses allowed under the C-2 Zone, and

WHEREAS, Modesto City Council Resolution No. 2006-056, which was adopted on January 24, 2006, approved an amendment to development plan to allow the development of a commercial building on the property located on the south side of W. Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(371) was filed by L Street Architects on January 11, 2007, to allow a revised site layout, which includes the utilization of a portion of the public right-of-way for a slip ramp, signage and additional parking, on property located on the south side of Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue.

WHEREAS, after a public hearing held on June 18, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2007-26, that the amendment to Planned Development Zone, P-D(371), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. Planned Development Zone, P-D(371) is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as “C” (Commercial), and the amendment to allow the development of slip ramp, signage, landscaping and additional parking will be consistent with the General Plan land use and intensity.
2. The proposed slip ramp and additional parking is compatible with the adjacent commercial uses. The parcels to the west and the south are zoned for commercial uses. The slip ramp will provide the site with a second point of access along on the western side of the property and increase the amount of available parking.

3. The proposed slip ramp will reduce traffic congestion at the intersection of Prescott Road and Briggsmore Avenue by providing a second point of access to the 2000 Briggsmore site.

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 11, 2007, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, and

WHEREAS, the City Council continued the public hearing to September 25, 2007, to allow staff, the applicant and the Modesto Irrigation District (MID) additional time to resolve issues regarding MID right-of-way and the Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, the City Council continued the public hearing to October 2, 2007 to allow staff additional time to revise the Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, the City Council further continued the public hearing to October 23, 2007, to allow additional time for the staff and the applicant to review the Agreement to Construct Improvements and Grant Revocable License, and

WHEREAS, said matter was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at 5:30 p.m. on October 23, 2007, at which time said public hearing was held and evidence both oral and documentary was received and considered, and
WHEREAS, after said public hearing the Council found and determined that the application of L Street Architects for an amendment to Planned Development Zone, P-D(371), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2007-26 and quoted above.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 85-240 entitled “A Resolution Approving a Development Plan for Planned Development Zone, P-D(371), (Robert L. Erickson)” as previously amended by Resolution No. 2006-056 are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(371), is hereby approved subject to the following conditions:

1. All previous conditions and requirements imposed on the site will remain in effect for this new proposal. All conditions of Planned Development Zone P-D(371), as stated in Council Resolution No. 2006-056, not in conflict with this action shall remain in full force and effect.

2. All development shall conform to the plot plan titled "Development Plan Briggsmore Plaza (File No. P-PDA-07-001)" as amended in red, stamped approved by the Planning Commission on June 18, 2007.

3. All signs shall comply with the sign requirements of the C-3 Zone except that the following signs as shown on the approved site plan shall be allowed:

   a. One freestanding business identification sign as defined in Code Section 10-2.2112(d) with a maximum height of 16 feet and a maximum sign area of 72 square feet, containing identification and advertising of tenants shall be allowed.
b. One gateway monument sign as defined in Code Section 10-2.2114(k), identifying the “Cornerstone Plaza” center. The gateway monument sign shall maintain a maximum height of 8 feet and a maximum signage area of 12 square feet.

4. The proposed slip ramp shall conform to City standards as outlined by the City Council Action of Expressway Access Policy approved September 18, 2001.

5. All private parking areas and connection roads within the City right-of-way shall be constructed in accordance with the standard structural section for residential streets as detailed in the City of Modesto Standard Specifications.

6. The property owner shall reimburse the City for the maintenance of the added slip ramp, the existing drainage basin, and streetlights along the added slip ramp. Maintenance responsibilities for these facilities shall be clearly indicated on all improvements plans.

7. Prior to the issuance of an encroachment permit, a closure plan shall be approved by the Director of Community and Economic Development, the Director of Public Works and the City Attorney or designees. The closure plan shall be consistent with the site plan approved by City Council Resolution 2006-056 and include the removal of all improvements in the City right of way.

8. Prior to the issuance of an encroachment permit, the applicant shall provide cash or cash equivalent securities for the implementation of the closure plan in an amount acceptable to the Director of Public Works or designee and in a form acceptable to the City Attorney.

9. In the event the City needs to recapture the Briggsmore Avenue right-of-way, the development at 2000 Briggsmore shall conform to the plot plan titled "Briggsmore Plaza Bldg. 2" as amended in red, stamped approved by the Planning Director on 1-24-06 as conforming in principle to the development plan approved by City Council Resolution 2006-056 on January 24, 2006.

10. Prior to the issuance of an encroachment permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
11. Parking landscaping will be required to comply with current City Code requirements and provide one shade tree for every eight parking spaces.

12. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

13. Prior to issuance of an encroachment permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

14. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the Director of Public Works or designee. Easements for irrigation lines to remain shall be dedicated.

15. All outdoor lighting shall be shielded from adjacent residential properties as required by the Director of Public Works or designee.

16. Trash bins shall be kept in enclosures in accordance with plans approved by the Director of Public Works or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

17. Trash enclosures for the project shall be bermed to prevent storm water run-off and graded to drain to adjacent landscape areas.

18. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

19. Prior to issuance of an encroachment permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

20. The Drainage basin shall meet the City of Modesto Standards Details and be clearly detailed on the improvements plans.

21. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.
22. 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. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

23. All conditions of City Council Resolution Nos. 85-240 and 2006-056 not in conflict with this resolution shall remain in full force and effect.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

24. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

25. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

26. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

27. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.
28. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

29. Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

30. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

31. Suspend excavation and grading activity when winds exceed 20 mph.

32. Limit the area subject to excavation, grading and other construction activity at any one time.

33. The City’s Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the “loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine.”

The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

a. A hammer or any other device or implement used to pound or strike an object.

b. An impact wrench or other tool or equipment powered by compressed air.

c. A hand-powered saw.

d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

34. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K."

“SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(371):

The entire construction program shall be accomplished in one phase, construction to begin on or before September 11, 2009 and completion to be not later than September 11, 2010.”
SECTION 3. CHANGES IN DEVELOPMENT PLAN. Any changes in the above approved development plan shall be made in accordance with the provisions of Section 10-2.1709 of the Modesto Municipal Code.

SECTION 4. COMPLIANCE WITH CODE PROVISIONS, ETC. In all other respects said planned development shall be accomplished in accordance with and in strict adherence to the provisions of Article 17 of Title 10 of the Modesto Municipal Code relating to Planned Development Zones and other applicable City laws, rules, regulations and procedures.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _______ SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-624

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(371), PROPERTY LOCATED ON THE SOUTH SIDE OF BRIGGSMORE AVENUE, EAST OF PRESCOTT ROAD, 2000 W. BRIGGSMORE AVENUE (L STREET ARCHITECTS FOR CALIFORNIA EQUITY MANAGEMENT GROUP INC.)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, California Equity Management Group Inc. has proposed an amendment to Planned Development Zone, P-D(371) to allow for a revised site plan, including the utilization of the public right-of-way for a slip ramp, signage and parking, on the property located on the south side of Briggsmore Avenue, east of Prescott Road, 2000 W. Briggsmore Avenue, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master Environmental Impact Report and whether the subsequent project was described in the Master Environmental Impact Report as being within the scope of the project, and

WHEREAS, the City’s Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2007-25 ("Initial Study") reviewed the proposed amendment to Planned Development Zone, P-D(371), to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan.
General Plan Master EIR ("Master EIR"), and concluded that the proposed project is within the scope of the Master EIR and will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines beginning on August 20, 2007, the City caused to be published a 20-day notice of the City’s intent to make a finding that the proposed project conforms with the Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on October 23, 2007, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to Planned Development Zone, P-D(371), a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

2. That the project will have no new significant effects on the environment not identified or examined in the Master EIR, and no new or additional mitigation measures are required.

3. That, as per Section 21157.1 of the Public Resources Code, no new environmental document or findings are required by the California Environmental Quality Act (CEQA).

4. That there are no specific features which are unique to the proposed project that require project specific mitigation measures.
Accordingly, the certified mitigation measures identified in the Master EIR will be sufficient for this project.

5. That all feasible mitigation measures set forth in the Master EIR which are appropriate to the project shall be incorporated in the project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October, 2007, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By: SUSANA ALCALA WOOD, City Attorney
EXHIBIT A

Initial Study

EA/C&ED 2007-25
City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2007-25)

For the proposed:

Amendment to Planned Development P-D(371), P-PDA-07-001
(L Street Architects, Applicant)

Prepared by:
City of Modesto
Community & Economic Development Department
Planning Division

May 8, 2007
City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Amendment to (P-D)317 (P-PDA-07-001) is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

A subsequent project is "within the scope" of the Master EIR when:

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

"Additional significant effects" means a project-specific effect that was not addressed as a significant effect in the Master EIR. (Public Resources Code Section 21158(d))

The determination must be based on substantial evidence in the record. "Substantial evidence" means facts, reasonable assumptions predicated upon facts, or expert opinion based on facts. It does not include speculation or unsubstantiated opinion. (State CEQA Guidelines Section 15384)

II. PROJECT DESCRIPTION

A. Title: Addition of a Slip Ramp at 2000 Brigsgmore, Amendment to Planned Development P-D(371), P-PDA-07-001

B. Address or Location: 2000 Brigsgmore, east of Prescott Road

C. Applicant: L Street Architects

D. City Contact Person: David Wage

Project Manager: David Wage, Assistant Planner
Department: Community and Economic Development Department
Phone Number: (209) 577-5302
E-mail address: dwage@modestogov.com

E. Current General Plan Designation(s): "C" Commercial Land Use

F. Current Zoning Classification(s): Planned Development Zone, P-D(371), SubUse: C-2, General Commercial

G. Surrounding Land Uses: North: (C-1) Neighborhood Commercial
   South: (C-1) Neighborhood Commercial
   East: (R-2) Planned Development Zone, P-D(371)
   West: (C-1) Neighborhood Commercial
H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR (Attach additional maps/support materials as needed for complete record):

The proposed amendment to P-D(371) is for a revised site layout, which includes the utilization of a portion of the public right-of-way for a slip ramp, signage and additional parking. The subject property is fairly unique due to the large strip of the Briggsmore Avenue public right-of-way located between the property line of the subject parcel and the physical street. The public right-of-way contains landscaping that was originally installed by the adjacent shopping center, but has since fallen into disrepair. The applicant is proposing to lease the unused right-of-way and incorporate the land into the site plan at 2000 Briggsmore. The proposed development includes the construction of a slip ramp located in the public right of way, which will draw traffic off of Briggsmore Avenue and provide the applicant with a second point of access along on the western side of the property. A seven-foot-wide landscaped median will be located between Briggsmore Avenue and the proposed slip ramp. A second six-foot-wide median will be located between the slip ramp and the parking area. The leased right-of-way will also be used for signage and 53 additional onsite parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)

1. **X** Within the Scope - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

D. Based on the Initial Study, the City of Modesto finds and determines:
   a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
   b) No new or additional mitigation measures or alternatives are required.

E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.
2. **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3. **Focused EIR Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

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4. **Within the Scope Analysis of this Document:**

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any “No” response must be discussed.

1. The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR. **X**

2. City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. **X**
(3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  

(4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  

(5) The development will occur within the boundaries of the City’s planning area as established in this Urban Area General Plan.  

(6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  

5. Currency of the Master EIR Document  

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any “No” response must be discussed.  

YES NO  

(1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  

(2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:  

(3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.  

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.  

IV. ENVIRONMENTAL ANALYSIS  

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is “within the scope” of the Master EIR.  

Pursuant to Public Resources Code Section 21157.1, no new environmental document or findings are necessary for projects that are determined to be within the scope of the MEIR.
Adoption of a notice of conformity after completion of the Initial Study fulfills the City’s obligation in that situation.

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the “Baseline Developed Area”:

Effect: Increased traffic will result in certain roadway segments operating at LOS “D” or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

Discussion:
This is an application to amend to P-D(371) to allow the addition of slip ramp off of Briggsmore Avenue, as well as 53 additional parking spaces. The proposed slip ramp is consistent with City Standards. Currently the main access to the 2000 Briggsmore site is located at the intersection of Prescott and Briggsmore. The proposed slip ramp should alleviate traffic at the intersection. Due to the nature of the addition there will not be a significant decrease in existing road capacities or levels of service.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including
any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

c. Project-Specific Effects

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

YES NO

(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. □ X

Note:
If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

YES NO

(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). □ X

(3) Result in inadequate emergency access. □ X

(4) Result in inadequate parking capacity. □ X

Discussion:

(1) Engineering and Transportation Staff reviewed the proposed project and found:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking
regulations. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. This is a significant and unavoidable impact.

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. This is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.

(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.

(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.

(4) The project would expose sensitive receptors to substantial pollutant concentrations.

(5) The project would create objectionable odors affecting a substantial number of people.
Discussion:
(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing church. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

Discussion:
Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:
The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance. □ X

The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan. □ X

The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? □ X

The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.
(3) The only permanent noise levels produced by the project would be associated with traffic. The traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.
(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.
Discussion:
The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project site and the surrounding property are located within a fully developed urbanized area, both inside and outside the corporate City limits.

b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.  YES NO ☐ X
2. The project will directly result in the development of land outside the March 2003 planning area boundaries. ☐ X
3. The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract. ☐ X
4. The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use. ☐ X

Discussion:
1. The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.
2. The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.
3. The project site is not zoned for agriculture nor is it under Williamson Act contract.
4. The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.
5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

**Effect:** Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

**Effect:** Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

**Effect:** During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**Discussion:**
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.  
   YES  NO
   □  X

2. Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.  
   □  X
Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less-than-significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

(1) The project is inconsistent with the Modesto Urban Area General Plan.  
   YES  NO  
   [ ]  X

(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

(1) The project is inconsistent with the Modesto Urban Area General Plan.  

YES  NO  

☐  X

(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.

YES  NO  

☐  X

(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

YES  NO  

☐  X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHaeological or Historical Sites

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

Discussion:

Mitigation Measures applicable to this project include: AH-8, Master EIR.
c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>1</td>
<td>☐</td>
<td>X</td>
</tr>
<tr>
<td>2</td>
<td>☐</td>
<td>X</td>
</tr>
</tbody>
</table>

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less-than-significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage...
channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

Discussion:
Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES  NO

(1) The project is inconsistent with the Modesto Urban Area General Plan.  
X

(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.  
X

(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.  
X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

**Effect:** Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore
would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

**Effect:** The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

**Effect:** The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

**Discussion:**

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

### c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

<table>
<thead>
<tr>
<th>(1) The project is inconsistent with the Modesto Urban Area General Plan.</th>
<th>YES NO</th>
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<tbody>
<tr>
<td>(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.</td>
<td>X</td>
</tr>
<tr>
<td>(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.</td>
<td>X</td>
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City of Modesto Finding of Conformance
General Plan Master EIR
Initial Study
EA/C&ED No. 2007-25
May 8, 2007
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less-than-significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project. It is not on or adjacent to any park sites, nor is it near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.
c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES  NO

(1) The project is inconsistent with the Modesto Urban Area General Plan. ☐  X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.
c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.

Discussion:
1. The project is consistent with the General Plan in both land use and intensity.
2. The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less-than-significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

b. Master EIR and/or New Mitigation Measures Applied to the Project

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.
c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

YES NO

1. The project is inconsistent with the Modesto Urban Area General Plan. □ X

2. The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. □ X

Discussion:

1. The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

2. The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less-than-significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This Impact would be less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the
project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.
2. The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.

Discussion:
1. The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
2. The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.
b. Master EIR and/or New Mitigation Measures Applied to the Project

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
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2. The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.

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<thead>
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<th>YES</th>
<th>NO</th>
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<td>X</td>
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</table>

Discussion:
1. The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

2. This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.
Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

YES NO
□ X
□ X
□ X
□ X
□ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.
(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less-than-significant.

b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion: No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

1. The project is inconsistent with the Modesto Urban Area General Plan.

   YES NO
   □  X

2. The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.

   YES NO
   □  X
Discussion:
(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-than significant unless:

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ YES □ NO X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project includes a substantive amendment to the Modesto Urban Area General Plan. □ X
(3) The project would physically divide an established community □ X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
(2) No amendment to the General Plan is required by this project.
(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

(1) The project is inconsistent with the Modesto Urban Area General Plan. □ X
(2) The project would have a substantial adverse effect on a scenic vista. □ X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. □ X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. □ X
Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

2. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

Noise Measures:

1. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

The noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
A. A hammer, or any other device or implement used to pound or strike an object.

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

D. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

E. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compaction equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

G. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

H. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers’ recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.

**Agricultural Land Measures:**

N/A

**Water Supply Measures:**

N/A

**Sanitary Sewer Service Measures:**

N/A

**Sensitive Wildlife and Plant Habitat Measures:**

N/A
**Archaeological or Historic Sites Measures:**

If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K.

**Storm Drainage Measures:**

The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Flooding and Water Quality Measures:**

The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A
Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.
A RESOLUTION DENYING THE APPEAL OF QUALITY TYMES CORPORATION, DBA OCEANS 10 RESTAURANT, AND AKA SIN CITY NIGHTS AND UPHOLDING THE DECISION OF THE POLICE CHIEF REVOKING THEIR DANCE PERMIT

WHEREAS, Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights was issued a dance permit on July 9, 2007, by the City of Modesto imposing specific conditions for its operation; a copy of said dance permit is attached hereto and incorporated herein by reference as Exhibit “A”, and

WHEREAS, by signing for receipt of the dance permit, the responsible party, Rosalind Mitchell acknowledged, read and agreed to comply with every required condition set forth in Exhibit “A”, including an acknowledgment that any violation could result in revocation of the dance permit, and

WHEREAS, Modesto Municipal Code Section 4-1.413 authorizes the Police Chief to revoke or suspend a dance permit when violations of the permit occurs, and

WHEREAS, on August 24, 2007, based on a number of violations of the dance permit which had occurred, the Police Chief sent a Letter of Intent to Revoke to Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, c/o Rosalind Mitchell (hereafter “Appellant”) to revoke their dance permit, a copy of which is attached hereto and incorporated herein by reference as Exhibit “B”, and

WHEREAS, by letter dated August 30, 2007, Appellant filed a notice of appeal with the Office of the City Clerk to the decision of the Police Chief revoking their dance permit, a copy of which is attached hereto and incorporated herein by reference as Exhibit “C”, and
WHEREAS, by an agenda report to the City Council from the Police Chief, dated September 10, 2007, City staff recommended the dance permit for Appellant be revoked, and

WHEREAS, this recommendation was based on nine violations of their dance permit as fully set forth in Exhibit “A”, and

WHEREAS, by letter dated September 21, 2007, Appellant requested a continuance of the hearing on their appeal to October 9, 2007; said request was denied by the City Council, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on September 25, 2007, at which date and time said public hearing was held, the Appellant was present and evidence both oral and documentary was received and considered, and

WHEREAS, on September 25, 2007, by Resolution No. 2007-572 the City Council denied Appellant’s appeal and modified the Police Chief’s Letter of Intent to Revoke their dance permit by imposing a 30 day suspension until October 23, 2007, with a report due back to the City Council for determination as to the final status of the dance permit, and

WHEREAS, on September 28, 2007, September 29, 2007, October 5, 2007 and October 7, 2007, multiple violations of the suspension and other laws were observed and documented, attached hereto and incorporated herein by reference as Exhibit “C”, and
WHEREAS, the Police Chief is recommending that the appeal of Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights be denied and their dance permit be revoked,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Quality Tymes Corporation, dba Oceans 10 Restaurant, and aka Sin City Nights, is hereby denied and the decision of the Police Chief revoking their dance permit is hereby affirmed.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of October 2007, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Olsen, Mayor Ridenour

NOES: Councilmembers: Marsh, O’Bryant

ABSENT: Councilmembers: Keating

ATTEST:  
JEAN MORRIS, City Clerk

(SEAL)
APPROVED AS TO FORM:

By:  
SUSANA ALCALA WOOD, City Attorney
DANCE PERMIT CONDITIONS
(with explanations in red)

1. A California State Licensed/Certified Security Company or Guard shall provide security for the business. The company shall be licensed to do business in the City of Modesto.

What this means is you should have one licensed, uniformed security guard from a security company that has a business license to conduct security services within the City of Modesto.

(a) All security guards shall be licensed, as provisioned by California State Statute or through the Modesto Police Department DED Guard Card Requirements.

(b) All security guard applicants must be able to meet the application requirements by the Department of Consumer Affairs for a guard card/license or by Modesto Police Department DED Guard Card Requirements.

(c) Upon receipt of guard card, a copy of guard card must be furnished to the Modesto Police Department to the attention of Leslie Rodriguez 48 hours of receipt of card.

All security guards currently employed and new hires shall have 60 days to come into compliance with the guard card requirements through the State or the Modesto Police Department.

This process is something all the clubs are working on coming into compliance. The handouts have been provided but here is a website [www.dca.ca.gov/bsis/lookup](http://www.dca.ca.gov/bsis/lookup) this is called Proprietary Private Security Officer. Please work on this and get your employees on track.

There shall be at least one (1) security officer stationed at the entrance of the business during hours of dancing. These officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.

This security person does not count as a member of the 1 to 50 ratio. The door person can not leave the door if there is a problem.

2. There shall be at least one (1) staff personnel stationed at every exit of the building.

An exit is any door or slider that can be used as an entrance or exit even though it is not being used, you must have a security person covering the door. This person also may not leave the door if there is a problem and is not counted in the 1 to 50 ratio.

3. There shall be one (1) state licensed Proprietary Private Security Officer per fifty (50) occupants inside the premises.
This again means there must be 1 security for every 50 persons in a night club. Example would be that if you have 300 people in the club, you need 6 security that are not assigned a door.

If the facility is leased, subletted, or rented, the organization or individual must apply for a >Daily Dance Permit= application 15 days in advance of the event providing proof of security, and a copy of the lease agreement for use of the facility.

This means that if you let a group or organization rent the club for a night to have a private party that your dance permit does not cover that group. The renter must apply for and obtain a dance permit for them in their name for that night.

If Applicant/establishment is owned as a corporation or partnership, it shall provide to Modesto Police Department a full disclosure of all partners, and /or officers, including their addresses and phone numbers. Any changes in owners, their addresses or phone numbers must be reported to the Modesto Police Department within 3 business days of any changes.

This is why I met with you, Rosalind and Ron several months back and asked if you, (Tony) were the new owner. You had told people you had bought the business. If that happens MPD should be notified. We also need contact numbers that work so we can make contact with the proper people when there are issues.

This condition letter shall be posted along with the dance hall establishment permit in public view and available to law enforcement for inspection upon request.

This document and permit should be posted like your ABC license and available upon request by Law Enforcement. It must be the current documents and not expired documents like we had occur a few months back.

There shall be no topless dancing, nude dancing and/or male, female revues permitted on the premises at anytime or any violation to the Adult Entertainment Ordinance, MMC 5-9.101 through 5-9.407.

This is self explanatory. If you ever decide you want to do anything like this I would first contact ABC. They have very strict guidelines. The girls border the revue and I would recommend you speak with the city attorney.

Modesto Police Department is not responsible or required to send reminder notices regarding the renewal of a dance permit. The permit holder is responsible to file a dance permit application within 15 days of the expiration date. If the permit expires, the dance permit is no longer valid and enforcement or administrative fines may be levied.
Do not wait for us to contact you when your dance permit is due for renewal. It is your responsibility to get the permit filed in a timely manner.

As a condition of the issued dance permit, the Modesto Police Department must have on file at all times evidence of liability insurance naming the City of Modesto as an additional insured. Minimum liability amounts must be one million dollars ($1,000,000.00).

Be sure that we have this policy on file.

Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment.

This system is something I know you are working on. Here is some information shared with me from Brian Haddix. IT guy named Boris Marroquin. He helped the fellow at Copper Rhino with the ID scanner. Boris said he knew about cheaper alternatives including wireless handheld devices that did not require a laptop but still did the same functions. His e-mail is boris@osconex.com.

A Dance permit shall not be issued or renewed if the business license fees, filings and/or taxes are not current or paid in full.

We have received several notifications about your fees being delinquent and if that happens understand that your dance permit will not be re-issued.

Modesto Police Department may change or revise conditions of this dance permit with 48-hour written notice.

If there should ever be a new condition you will be notified within 48 hours.

Membership and attendance to the DED (Downtown Entertainment District) monthly meetings facilitated by DID (Downtown Improvement District) is required of a general manager and/or owner of facilities who hold dance permits in the DED area.

This means we want you to attend these meetings and play an active role. Be a part of the solution and not a part of the problem. Be a problem solver!

All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: ‘SECURITY’. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and ‘SECURITY’ in smaller, visible print. Dark colored pants are acceptable.
I think you have an understanding on this one now. The shirts must have the word SECURITY on the back in 4 inch letters. Club name or security firm on the front or sleeve of security person with the word SECURITY also visible on the front.

Occupancy for the premises shall be posted above the main entrance visible to the public and also posted above every bar(s) location within establishment.

At no time shall the occupancy exceed the rated number posted for occupancy. If it is determined that the premise is over their posted occupancy, the Police Department shall have the authority to restrict further entrance of patrons until the facility has abated their occupancy issue.

You have not had a problem with this, but be sure the occupancy is posted over the main entrance and do not exceed your limit.

Entertainment provided by the licensee shall not be audible beyond the entertainment venue under the control of the licensee.

You have not had a problem with this, but be sure the music from your business is not audible across the street and you will be fine.

Patrons shall be prohibited from >in-and-out= privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.

This is an issue that can not happen. Patrons may not exit to smoke and then re-enter. This means that when someone leaves your business they must pay to re-enter and the re-entry can only happen after one hour has passed. There is no exception to this rule.

The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.

This means that you and your staff are responsible to clear your crowds in an orderly fashion. This should happen within thirty minutes and MPD should not have to step in unless there is a problem your staff can not handle.

Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business.

This really says that you will help keep your crowd moving to their cars. If that
means following them into 10th Street Place then do so. If it means following them into the parking garage then do so. Again it is your responsibility, not MPD’s.

At all time during hours of operation, the business shall remain open and accessible to law enforcement and the fire department.

Never been a problem and very self explanatory.

A soft close is authorized under the following conditions:
(a) Dancing shall cease at approximately 2:00 A.M., so that patrons can be cleared from the establishment by 3:00 A.M.
(b) All sales of alcohol must cease at 1:30 A.M.
(c) Consumption of alcohol must stop by 2:00 A.M. and drinks are to be collected and disposed of.
(d) No new patrons are to be allowed into the club after 1:30 A.M.
(e) No outside advertising of ‘soft close’ or after hours dancing.
(f) Patrons requesting taxi service or alternative transportation will be given reasonable assistance by the club management/security staff.
(g) Conditions to this soft close can be amended and the authorization
(h) The soft closing is revocable at any time by the Modesto Police Department.

This has been a problem for a long time, but you seem to have a grip on it right now and what you are doing is working. Move the crowd out in small waves of 25 to 30 people and keep them moving to their cars. This allows for small crowds to be moving and not large crowds all at once.

Licensee shall adhere to all conditions of their ABC license issued to the premises.

25. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under control of the licensee.

26. On duty employees for the business shall not consume alcoholic beverages or be under the influence of an alcoholic beverage on the premises during hours of operation.

27. Those areas adjacent to the business shall be maintained litter free. All litter shall be removed within (3) three hours of closing time.

You are a restaurant and not just a nightclub. Your license is based on that. You are in violation of your dance permit. You as an on duty employee may not consume alcoholic beverages. Upon many contacts with you I have detected the odor of alcoholic beverages from your breath. You can not do that and are in violation of your dance permit. You are to clear any litter in front of your club within three hours of closing. That includes your handbills given as people exit.
Any valid dance establishment permit holder that holds a special event shall notify the Modesto Police Department by electronic e-mail notification to include both CSO Leslie Rodriguez (Rodriguezl@modestopd.com) and Lt. Ron Cloward Clowardr@modestopd.com not less than twenty four (24) calendar days in advance of the special event.

(a) A “special event” is defined as any live performance, concert, live music event, live entertainment or any person or persons providing musical entertainment with live or recorded music.

(b) The Modesto Police Department shall review the written notification of the special event and determine, based upon past experience and/or research, whether it is reasonably likely that the special event may draw a large attendance, evoke increased violence, noise, public drunkenness, drug-trafficking and other illegal activity.

This seems to be an area of great misunderstanding. Any event that may draw a crowd must be forwarded to MPD for review so we can be prepared for any crowd problems. You seem to be catching on to this and I appreciate your efforts.

The licensee agrees to pay for police services provided by the City of Modesto for costs of police services, as determined by the Chief of Police and are a result of public disorder arising from patrons of the establishment.

This has not happened to you, but I assure you it is in the future going to be an issue. If any crowd situation or event that causes the police department to respond and disburse crowds you will be billed for our services.

Any violations of these conditions, local ordinances or state laws may result in administrative fines, or the immediate suspension and/or revocation of the dance hall permit per Modesto Municipal Code 4-1.413 (Revocation of Permit).

This one I think you know first hand. Again understand that it can happen again and you must obey all rules and laws or fines, suspensions, and/or revocations may occur.
Letter of Intent to Revoke

Quality Times Corporation
C/O Rosalind Mitchell
4400 Gomes Rd
Modesto, CA 95354

August 24, 2007

Dear Ms. Mitchell

It is the intent of the Chief of Police of the Modesto Police Department to revoke your dance permit pursuant to:

4-1.413 MMC; Revocation of Permit.

A dance permit may be revoked or suspended by the Chief of Police of the City of Modesto upon five (5) days' notice to the holder thereof, for violation of any of the provisions of this article, or of any condition imposed upon any permit, or of any rule or regulation promulgated hereunder, or of any state or local law. No person whose permit has been revoked shall be granted or issued a new permit, nor shall any new permit be granted or issued to any person who was or is an agent, employee or representative of the person whose permit was revoked unless the following conditions are satisfied:

(a) Twelve (12) months or more have elapsed since the former permittee was notified of the intended revocation;

(b) The former permittee has, to the satisfaction of the Chief of Police, corrected all conditions and violations upon which the revocation was based or has provided to the Chief of Police acceptable plans for procedures reasonably likely to prevent future violations should the permit be reissued;

An Internationally Accredited Law Enforcement Agency
(c) Such other conditions as the Chief of Police may reasonably require. 
(Added by Ord. 2563-C.S., § 1, amended by Ord. 2613-C.S., § 1, effective 11- 
3-88)

**Basis for Revocation**

The basis for this revocation is related to multiple violations of the dance 
permit. These violations were observed and documented on June 17, 2007 by 
Detective Steve Stanfield under case number #07-56621 and on July 15, 2007 
under case #07-67252 by Lieutenant Ron Cloward. The violations are as 
follows:

**Violation #1 (June 17, 2007)**

You were unable to present a copy of your current dance permit upon request. 
Once you found a copy of a dance permit it was the expired permit from 
previous months. This is a violation of Condition Seven of the dance permit, 
which states; *This condition letter shall be posted along with the dance hall 
establishment permit in public view and available to law enforcement for 
inspection upon request.*

**Violation #2 (June 17, 2007)**

The performance of Go-Go dancers in cages is deemed a special event and no 
notification was made. This is a violation of Condition Twenty-Eight of the 
dance permit, which states; *A "special event" is defined as any live 
performance, concert, live music event, live entertainment or any person or 
persons providing musical entertainment with live or recorded music.*

**Violation #3 (June 17, 2007)**

The ABC license was not posted as per the requirements of ABC. It was 
eventually located under the counter. This is a violation of Condition 
Twenty-Four of the dance permit, which states; *Licensee shall adhere to all 
conditions of their ABC license issued to the premises.*

**Violation #4 (July 15, 2007)**

There was only one mechanical counter located at the front door to be used to 
count patrons entering only. This is a violation of Condition Two of the 
dance permit which states; *There shall be at least one (1) security officer 
stationed at the entrance of the business during hours of dancing. These
officers shall keep count of patrons entering and leaving the business by use of two mechanical counting device, one for those entering and one for those patrons exiting and made available for inspection by the police department upon demand.

Violation #5 (July 15, 2007)

There was no security staff stationed at the back door of the business during hours of dancing. This is a violation of Condition Three of the dance permit, which states; There shall be at least one (1) staff personnel stationed at every exit of the building.

Violation #6 (July 15, 2007)

There were only six security personnel on staff for the night. The count I was given was 330 patrons inside. This is a violation of Condition Four of the dance permit, which states; There shall be one (1) state licensed and certified security guard per fifty (50) occupants inside the premises.

Violation #7 (July 15, 2007)

The security personnel were wearing white T-shirts. Some of these T-shirts had no writing on them at all that identified them as “SECURITY”. Others had the words, “Security” on the back only. This is a violation of Condition Fifteen of the dance permit, which states; All private security guards and security staff/bouncers must be in a light colored (white, yellow, tan or light gray) shirts and outer layering with the following on the back of the shirts or outer layering in black or dark blue lettering: ‘SECURITY’. Only black or blue lettering is permitted and no smaller than 4 inches in height. Lettering must be monogrammed, embroidered or silk-screened. The front of the shirts shall also display the name of the security company and/or the club name and ‘SECURITY’ in smaller, visible print. Dark colored pants are acceptable.

Violation #8 (July 15, 2007)

Patrons were leaving and re-entering the club at will. This is a violation of Condition Nineteen of the dance permit, which states; Patrons shall be prohibited from “in-and-out” privileges to the club without paying a cover charge each and every time they re-enter the club or; if there is no cover charge, patrons must allow one hour before they re-enter the club on the same evening. The establishment is required to document such entrance and exit activity by electronic ID scanner or other verifiable means and must produce this to law enforcement upon demand.
Violation #9 (July 15, 2007)

As the night came to a close, patrons were being pushed out of the club at one time and security went back inside while people stood on the sidewalk outside. This is a violation of Conditions Twenty-One and Twenty-Three of the dance permit, which states; *Security staff will remain on the premises until all patrons have left the vicinity of the premises and surrounding neighborhoods when the business closes and discourage any loitering in the parking areas to business during and at the close of business. The licensee is responsible for the orderly disbursement of all patrons upon closing and within thirty (30) minutes prior to the establishments' closing time.*

The Modesto Police Department has met with the staff and ownership of your business and discussed these issues listed above. As of July 21, 2007 the shirts were still the same, patrons were still being put out of the business at one time with no observations of the soft close. Patrons have also continued to enter and leave at will.

Discussions have also taken place with the staff and management regarding the need to implement the electronic identification scanning system as mentioned in the dance permits. The clubs in the DED are currently all coming online with their equipment. To date Tymelss has not made any contact or attempt to get online with this system.

This system is required per Condition Eleven of the dance permit, which reads;

*"Facilities who hold a dance permit in the DED shall be operating and linked electronically to a centralized scanning system of an ID reader and a shared telecommunication system upon delivery of equipment."

Due to the continued record of violations and refusal to comply with the conditions of your dance permit, the Modesto Police Department intends to revoke your dance permit as per 4-1.413 MMC.

The five day notice period required by the provisions of Modesto Municipal Code section 4-1.413 for the revocation of a dance permit commences with the personal service of this letter of intent, which will be served by Lt. Cloward on the date set forth below. The five day notice period will be calculated as five working days commonly defined as Monday through Friday, excluding holidays.
Quality Tymes operates *Oceans 10* restaurant providing elegant classic refined dining. Our dinner selections will be created by our Executive Chef featuring Pacific Rim Cuisine prepared simply and presented elegantly in an intimate setting.

*Oceans 10* entertainment features *Sin City Nights* which provides a Las Vegas style entertainment setting for late night dining, dancing, and refreshments, with live and recorded music.

The development of the Quality Tymes Corporation business plan relies extensively on the existence of a dance permit. Our permit has been in place for over a year. We have worked hard during this year to provide vitality and high quality services to this location within the downtown redevelopment zone. We have worked tirelessly with city officials.

We have never been cited for any infractions. We have attended DED meetings as an active participant, and we have complied with all requests for modification of our business plan as they have occurred from all city offices. We believe we have fostered a solid constructive working relationship with Modesto Police to enhance the safety of the patrons we serve. Effective and timely communication has been an essential part of this relationship.

On August 23 we received two Administrative Citations. One day later, at midnight on August 24, we were served a Notice of Intent to Revoke our dance permit based on the citations received the day before. This was based on police reports filed over 30 days prior. We were never notified of police reports being filed concerning our business operating procedures, despite being in constant contact with the Police and requesting feedback on our operations.

Quality Tymes Corporation is appealing the Modesto Police Letter of Intent to Revoke based on the criteria outlined below.
Notice of Appeal  Quality Tymes Corporation  8/30/2007

for over 30 days is justified or in line with standards enforced for other similar organizations in the Downtown district.

The equitable enforcement of dance permit enforcement is the main criteria by which Quality Tymes does not believe our permit should be revoked. Without equitable enforcement of the permit requirements, the City of Modesto has created the ability to selectively allow one business to succeed while another is eliminated. The variances in enforcement of the dance permit regulations have been an issue that requires the immediate attention of the City Council in order to prevent the disruption of businesses trying to develop in the Modesto area.

The nature of each violation and concern noted in the Letter of Intent to Revoke and how it has been addressed are described below. We want to emphasize our continued willingness to work with the city officials responsible for enforcement of these measures. However, we request that you immediately grant our appeal or it jeopardizes our ability to continue our business.

Violation #1 6/17 - Copy of Dance Permit Not Posted

The Quality Tymes dance permit has been on display hanging on the wall three feet inside the front door. Newly hired staff had removed it while cleaning and had placed it under the counter at the front hostess station. It took less than 5 minutes to check the main office and under the counter to locate the permit. It has been hanging in its right spot since and staff has been educated on the fact that it is not to be moved. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. The situation has been corrected, and does not warrant the revocation of our dance permit.

Violation #2 6/17 - Introduction of “go-go dancers” deemed an “event”

There was no event on June 17, 2007. As part of our normal course of business, Quality Tymes hosts birthday parties, wedding receptions, dinners, and business receptions for up to 300 people. Many of these functions allow us to remain open to the public. On June 17, 2007 a customer hosted a birthday party under the name Sin City Nights. At the same time we initiated a change of format that includes some of the bartenders and hostesses acting as “go-go” dancers. This did not cause us to change our level of staffing or present any additional load on the public safety system, and therefore does not rise to the level of an event requiring prior notification. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. We are now identifying which nights include dancers in our regular monthly schedule notification to Modesto Police. This incident does not warrant the revocation of our dance permit.

Violation #3 6/17 - ABC License not posted

Cleaning had taken place where the ABC license, which has been on display since our opening on 12/31/2005, was taken down. The license was mistakenly placed under the counter instead of on the wall. In less than 5 minutes this oversight was corrected while the officers were present and the license remains on display as it always has. The extent of concern regarding this incident was not communicated, even during our dance permit renewal two weeks later on June 30. This incident does not warrant the revocation of our dance permit.
Violation #4 7/15 - Single mechanical counter
We use the electronic scanner as a counter for the number of people entering the building, and a single mechanical counter for the number of people exiting the building. We do this to help minimize the number of things the front door security must juggle in the event of trouble. We have not been notified that this is an unacceptable procedure. Backup mechanical counters are available on site so a two mechanical counter system can be used in the event of the failure of the electronic scanner. No concerns about our counting methods have been communicated to us. The method we use provides the necessary double count system to determine the number of people in the building. This incident does not warrant revocation of our dance permit.

Violation #5 7/15 - No staff at back door
It has been Quality Tymes' understanding from ABC regulations that there can be only one entrance and exit when liquor is being served. Under this definition, we considered the front door as our only exit and kept it staffed with security. Modesto Police has now clarified that their use of the term exit on the dance permit includes the fire exits which are not used as entrances during our hours of operation. The rear fire exit is now being staffed. This incident does not warrant revocation of our dance permit.

Violation #6 7/15 - Security insufficient for 330 people
Quality Tymes' records show the security staff at 7 people on the night in question. This is sufficient staffing under the dance permit conditions. We share the Modesto Police concern about sufficient security staffing and our proud of our lack of major violent incidents at our facility. We are concerned that the Police officer did not check with management or the owners on site concerning the accurate count of the number of security staff on duty that evening. We are ensuring the door personnel know the accurate number of security working as well as providing refresher training on the importance of keeping an accurate door count.

Violation #7 7/15 - Security T-shirts not properly marked
The requirement for front markings on shirt had been overlooked on the first printing of new security uniforms. These are the shirts that were in use temporarily on July 15th. Replacement shirts with the necessary marking on the front identifying the wearer as security were ordered the next business day (Monday, 7/16). The printing for these shirts was completed on July 21. The shirts were placed in use that evening, 7/21. Modesto Police did speak with us about their concerns around the markings on the shirts. We took immediate action and the situation has now been corrected. This incident does not warrant revocation of our dance permit.

Violation #8 7/15 - Re-entry
Pending completion of the permit process for a permanent outside patio, Quality Tymes has negotiated an agreement with Lt. Cloward that allows patrons to exit the building and remain.
Notice of Appeal

Quality Tymes Corporation

8/30/2007

within the crowd control ropes for the purpose of smoking without being considered "in and out". Patrons who exit the crowd control area must comply with the rules concerning "in and out" privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Violation #9 7/15 - Disbursing crowd

Quality Tymes security regularly and completely disburses the crowd exiting our building. On the night in question, a neighboring business was vending food on the sidewalk after club closing hours. This resulted in a crowd forming in front of 949 10th Street business from patrons exiting other establishments on the street, which gave the appearance of spilling over in front of our establishment. Because our crowd was gone, our security did not remain on the street and were not available to assist in disbursing this gathering. Security procedures have been changed so that our security now maintains a presence on the street until all the other establishments in the neighborhood complete their close to ensure these people do not gather in front of our establishment. The sale of food products on the sidewalk next door to our establishment has been restricted. Modesto Police has mentioned to us that they felt we were not doing enough crowd disbursement. We have changed our closing procedures to allow more of our security presence, even after our crowd is disbursed, to ensure these other patrons do not gather in front of our establishment. This incident does not warrant revocation of our dance permit.

On 7/21 shirts were still the same

As stated above, the revised shirts were completed on 7/21/2007 and placed in service on that night for X-Fest. The letter of intent does not say whether the 7/21 observation was done after midnight on Friday, when the new shirts were not yet available from the printer, or before midnight on Saturday, when the new shirts were in use. We acted swiftly to correct this concern as soon as it was identified. The situation has been corrected and does not warrant the revocation of our dance permit.

7/21 No observation of Soft Close

Under the conditions of the dance permit, a soft close is authorized but not required. Our closing procedures involve shutting down portions of the facility starting at 1:15 AM in an attempt to begin moving customers out toward their destinations. At 1:50 AM we require patrons to exit the building. This allows us to disburse our customers from the street in the small time window between the crowds created by the closing of the much larger establishments around us. Since there is no requirement for a soft close, and there have been no public safety incidents as a direct result of our procedures, this concern does not warrant the revocation of our dance permit. Previous attempts to implement a soft close procedure have not been successful. We are continuing our discussions with Modesto Police to explore procedures that allow us to do an effective soft close.
7/21 Continued concerns with Re-entry

Pending completion of the permit process for a permanent outside patio, we have negotiated an arrangement with Lt. Cloward to allow patrons to exit the building and remain within the crowd control ropes for the purpose of smoking without being considered "in and out". Patrons who exit the crowd control area must comply with the rules concerning "in and out" privileges. Modesto Police did speak with us about their concerns regarding compliance with re-entry policies. After some discussion they agreed that enforcement of the method we have described provides compliance with the re-entry policy. We are continuing our efforts to obtain a permit for a permanent outside patio which we expect to complete in the next 30-60 days. This incident does not warrant revocation of our dance permit.

Electronic ID system

We are actively working with Tony of Copper Rhino to obtain the necessary software to come on-line with the DED system. Our commitment to complying with this requirement has been demonstrated by our purchase and use of the required hardware on June 26, 2007. We are already electronically scanning IDs as part of our screening process. The only reason we are not already on the system is the failure of the responsible person to provide us with the necessary software. We are actively coming into compliance with this requirement, along with the other establishments in the DED. This concern does not warrant the revocation of our dance permit.

We have noted in the past our objection to the fact that this process is under the control of the manager of an establishment which has a vested interest in the success or failure of other businesses in using the system. We want to renew our request that the control of steps needed for compliance with this requirement be placed with the DED or with Modesto Police.

"Continued Record of Violations"

There has been no record of violations prior to the issuance of this notice. We have regularly met and discussed compliance issues with Modesto Police, but no violation notices have been issued. On August 22, 2007, obviously in conjunction with the Letter of Intent to Revoke, two Administrative Citations were issued each based on a date and incidents identified as violations above. This is our first written notification of any variance to the conditions of our dance permit. The copies of police reports attached to the Notice of Intent to Revoke are the first time we have seen that police reports have been filed regarding our business. All violations occurred on one date. There has been no continued record of violations.

"Refusal to comply with the conditions of your dance permit"

We have taken immediate steps to make the necessary changes to rectify the situation each time Modesto Police has identified a concern to us. At no time have we refused to comply with the conditions of our permit.

Page 5 of 6
Copies of police reports

Quality Tymes was not made aware in a timely manner that police reports had been filled out concerning our business. The two reports attached to the Notice of Intent to Revoke are the first notification we have had of any formal activity by the Modesto Police. One of these reports is over 60 days old and pre-dates the renewal of our dance permit on June 30. The other report is over 30 days old. If these concerns rise to the level of revoking our dance permit, formal notification should have been given so corrective actions could be taken and identified before such drastic punitive action was taken.

Uneven enforcement

Quality Tymes feels the action of revoking our dance permit is an unreasonable response to the history and level of violations noted and our response to them. We are aware of other establishments in downtown who have had multiple violations of building, fire, and ABC regulations who have not had their dance permits revoked. Although several establishments were cited by the ABC during X-fest, dance permits have not been revoked based on those violations. Several establishments have had multiple, well publicized incidents requiring massive Police response and their dance permits have not been revoked.

Quality Tymes has not required massive Police response, excessive oversight, or expenditure of Police resources. However, we have continually been selectively reviewed for our compliance with the regulations without prior citations.

Finally, the Modesto Police have notified the DED that they do not intend to renew dance permits for establishments that hold a type 47 ABC license. This includes Quality Tymes. The ability to provide dining, dancing, and entertainment is a central component to the business plan for our downtown business. There is no provision in the regulations for denying a dance permit based on the type of ABC license.

If overuse of Police resources is a concern, Quality Tymes recommends restriction of permits based on conditions that are identified and not corrected in a timely manner. Furthermore, repeated violent incidents resulting in arrests and expenditure of Police resources should be considered.
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-626


BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Pursuant to Article 11 of Section 3 of the California Constitution and Section 9255(a)(2) of the California Elections Code, and California Government Code Section 34458, the Council of the City of Modesto proposes to and does hereby, on its own motion, submit to the qualified electors of the City of Modesto, at the Presidential Primary election to be held on February 5, 2008, a ballot measure entitled “The Accountability in City Hall Measure of 2008”.

SECTION 2. That a measure is to appear on the ballot as follows:

Shall the Modesto City Charter be amended to:
upgrade mayor’s duties/responsibilities; increase accountability of city departments by requiring city council to implement budget/policy priorities; establish an independent City Auditor; create a citizens’ commission to recommend council salaries, impose mandatory salary caps on city council; require annual performance audits for key personnel; modernize accountability/disciplinary practices; and make deputy directors and attorneys “at will” employees?

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SECTION 3. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Stanislaus.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

BE IT FURTHER RESOLVED that Resolution No. 2007-596 is hereby rescinded upon the effective date of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 30th day of October, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

(Seal)

APPROVED AS TO FORM:

By

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING LEILANI SAN NICHOLAS-GARCIA TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of LEILANI SAN NICHOLAS-GARCIA to the Citizens Advisory Committee on Recycling.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. LEILANI SAN NICHOLAS-GARCIA is hereby appointed to the Citizens Advisory Committee on Recycling with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Citizens Advisory Committee on Recycling, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

SUSANA ALCALÁ WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-628

A RESOLUTION APPOINTING CAROL D. DOLAN AND CHRIS RICCI TO THE COMMUNITY QUALITIES FORUM

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and
WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of CAROL D. DOLAN, a northwest resident, and CHRIS RICCI, a northeast resident, to the Community Qualities Forum.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. CAROL D. DOLAN, a northwest resident, and CHRIS RICCI, a northeast resident, are hereby appointed to the Community Qualities Forum with term expirations of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Community Qualities Forum, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST:  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

110707/CMO/Epuckett
MODESTO CITY COUNCIL  
RESOLUTION NO. 2007-629  

A RESOLUTION APPOINTING ANTONY LITTLE TO THE CULTURE COMMISSION  

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and  

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of ANTONY LITTLE to the Culture Commission.  

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:  

SECTION 1. ANTONY LITTLE is hereby appointed to the Culture Commission with a term expiration of January 1, 2011.  

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Culture Commission, and the Secretary thereof.  

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:  

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour  

NOES: Councilmembers: None  

ABSENT: Councilmembers: None  

ATTEST: Jean Morris, City Clerk  

APPROVED AS TO FORM:  

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-630

A RESOLUTION APPOINTING SAMANTHA JUAREZ TO THE EQUAL OPPORTUNITY/DISABILITY COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of SAMANTHA JUAREZ to the Equal Opportunity/Disability Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. SAMANTHA JUAREZ is hereby appointed to the Equal Opportunity/Disability Commission with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the Equal Opportunity/Disability Commission and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-631

A RESOLUTION APPOINTING ALEXANDRA HOFFMAN TO THE HOUSING REHABILITATION LOAN COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of ALEXANDRA HOFFMAN to the Housing Rehabilitation Loan Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ALEXANDRA HOFFMAN is hereby reappointed to the Housing Rehabilitation Loan Committee with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Housing Rehabilitation Loan Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-632

A RESOLUTION APPOINTING BRIAN HILL TO THE TUOLUMNE RIVER REGIONAL PARK CITIZENS ADVISORY COMMITTEE

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on October 8, 2007, and recommended appointment of BRIAN HILL to the Tuolumne River Regional Park Citizens Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. BRIAN HILL is hereby appointed to the Tuolumne River Regional Park Citizens Advisory Committee with a term expiration of January 1, 2011.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Tuolumne River Regional Park Citizens Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

ATTEST: Jean Morris, City Clerk

110707/CMO/EPuckett/item01 1 2007-632
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-633

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RICH ROSA FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, RICH ROSA was appointed a member of the Airport Advisory Committee on December 11, 2001, and

WHEREAS, RICH ROSA has tendered his resignation from the aforementioned committee effective October 16, 2007, and

WHEREAS, RICH ROSA has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of RICH ROSA from the Airport Advisory Committee hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to RICH ROSA for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-634

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF WILLIAM A. JAQUES FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, WILLIAM A. JAQUES was appointed a member of the Citizens Advisory Committee on Recycling February 25, 2003, and

WHEREAS, WILLIAM A. JAQUES has tendered his resignation from the aforementioned committee effective October 8, 2007, and

WHEREAS, WILLIAM A. JAQUES has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of WILLIAM A. JAQUES from the Citizens Advisory Committee on Recycling hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to WILLIAM A. JAQUES for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES: Councilmembers: None
ABSENT: Councilmembers: None

ATTEST:  Jean Morris

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney
A RESOLUTION APPOINTING THIRTEEN (13) MODESTO AREA HIGH SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH COMMISSION

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Five (5) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

- Big Valley High School
  To be appointed at a later date
- Downey High School
  Ulysses Cisneros
- Modesto High School
  Amy Howser
- Davis High School
  Johnathon Sample-Cruz

SECTION 2. Eight (8) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

- Beyer High School
  Harleen Sethi
- Central Catholic High School
  Samantha Misslbeck
- Downey High School
  Kevin Sutherland
- Johansen High School
  Il/07
- Big Valley High School
  To be appointed at a later date
- Davis High School
  To be appointed at a later date
- Enochs High School
  Kaitlyn Reilly
- Modesto Christian High School
  Justina Staub
SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the City of Modesto Youth Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ________________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ___________________________________
SUSANA ALCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-635

A RESOLUTION APPOINTING FOURTEEN (14) MODESTO AREA HIGH SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH COMMISSION.

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Four (4) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Big Valley High School XXX
Johansen High School XXX

SECTION 2. Ten (10) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

Beyer High School XXX
Central Catholic High School XXX
Downey High School XXX
Johansen High School XXX
Modesto High School XXX
Davis High School XXX

XXX
XXX
XXX
XXX
XXX
XXX

Enochs High School XXX
Modesto Christian High School XXX
Valley Charter High School XXX

XXX
XXX
XXX
SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to
the newly appointed members of the City of Modesto Youth Commission, and the Secretary
thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City
of Modesto held on the 7th day of November, 2007, by Councilmember Olsen, who moved its
adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call
carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen,
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: ____________________________
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: ________________________________
SUSANA ÁLCALA WOOD, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2007-636

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT WITH JAMES E. NISKANEN TO SERVE AS INTERIM CITY MANAGER OF THE CITY OF MODESTO FOR A LIMITED TERM EFFECTIVE JANUARY 7, 2008 THROUGH JUNE 30, 2008 AT A MONTHLY SALARY OF $14,650

WHEREAS, the City Council desires to enter into a limited term employment agreement to allow the City sufficient time to successfully complete the recruitment for City Manager, and

WHEREAS, the City Council desires to enter into an employment agreement with James E. Niskanen to serve as interim City Manager of the City of Modesto for a limited term effective January 7, 2008 through June 30, 2008 at a monthly salary of $14,650.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign an employment agreement with James E. Niskanen to serve as interim City Manager of the City of Modesto from January 7, 2008 through June 30, 2008, at a monthly salary of $14,650. Said employment agreement is attached hereto as Exhibit “A” and incorporated herein by this reference.
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of November, 2007, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: [Signature]
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]
SUSANA ALCALA WOOD, City Attorney
# CITY OF MODESTO – JAMES E. NISKANEN

**EMPLOYMENT AGREEMENT FOR A LIMITED TERM**

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the Employee’s group insurance plan with City reimbursement for Employee’s out-of-pocket costs.

D. The Employer shall pay the amount of premium due for a term life insurance policy of $120,000. The Employee shall name the beneficiary of the life insurance policy.

Section 5: Vacation, Sick and Management/Executive Leave
A. The Employee shall accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees. Employer agrees to provide Employee with an additional eighty (80) hours of vacation time effective January 7, 2008 to create a vacation bank to be used at a future date. The Employee’s vacation accrual cap will not be in effect until six (6) months after the termination of this limited term agreement.

B. In the event the Employee’s employment with the City of Modesto is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, earned management/executive leave and other benefits to date.

C. The Employee shall on January 1, of each calendar year be credited with eighty (80) hours of executive/management leave or the highest amount credited to any non-sworn management employee, whichever is greater.

Section 6: Automobile
The Employer agrees to continue to pay the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of $4,800.00 per year, or $400.00 per month payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

Section 7: Retirement
A. The Employer agrees to continue enrollment of the Employee in the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay .04% of the total 7% “Employee’s share,” and Employer shall pay 100% of “Employer’s share” on behalf of the Employee.

B. In addition to the Employer’s payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee’s continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to two and one-half percent (2.5%) of Employee’s base salary, into the designated plan on the Employee’s behalf, in equal proportionate amounts each pay period. The
body that the Employee resign, then the Employee may declare a termination as
of the date of the suggestion.

E. Breach of contract declared by either party within a 30-day cure period for either
Employee or Employer. Written notice of a breach of contract shall be provided
in accordance with the provisions of Section 21.

F. In the event the Employer terminates this Agreement during which time
Employee is ready, willing and able to perform the functions and duties set forth
herein, then, in that event, Employer agrees to:

1. Provide Employee with sixty (60) days prior written notice of said
termination.

Section 10: Reinstatement to Previous Classification
Upon the appointment and/or start date of a City Manager or termination of Employee,
Employer agrees that the Employee may be reinstated to the classification of Parks,
Recreation and Neighborhoods Director, with all compensation, benefits and
requirements that are in effect at the time of reinstatement. In the event that the
Employee is appointed City Manager, this Agreement will expire and will be replaced
with a new Agreement.

Section 11: Severance
A. Severance shall be paid to the Employee when employment is terminated as
defined in Section 11.B.1.

B. In the event the Employer terminates this Agreement during which time
Employee is ready, willing and able to perform the functions and duties set forth
herein, then, in that event, Employer agrees to:

1. Provide Employee with sixty (60) days prior written notice of said
termination.

Section 12: Resignation
In the event that the Employee voluntarily resigns his/her position with the Employer, the
Employee shall provide a minimum of sixty (60) days advance notice unless the parties
agree otherwise.

Section 13: Performance Evaluation
Employer may review the performance of the Employee subject to a process, form,
criteria and format for the evaluation, which shall be mutually agreed upon by the
Employer and Employee. The process at a minimum shall include the opportunity for
both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and
(3) present a written summary of the evaluation results. The final written evaluation
should be completed and delivered to the Employee within thirty (30) days of the
evaluation meeting.

Section 14: Hours of Work
It is recognized that the Employee must devote a great deal of time outside of the normal
office hours on business for the Employer, and to that end Employee shall be allowed to
establish an appropriate work schedule.

October 5, 2007
with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

Section 20: Notices
Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal service, postage prepaid and addressed as follows:

EMPLOYER: City Clerk, City of Modesto, P.O. Box 642, Modesto, CA 95353
EMPLOYEE: James E. Niskanen, 3840 Ambrosia Lane, Modesto, CA 95356

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 21: General Provisions
A. Integration. This Agreement sets forth and establishes the entire understanding between Employer and Employee relating to the employment of the Employee by Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this Agreement during the life of the agreement. Such amendments shall be incorporated and made part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on January 7, 2008.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.