

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2009-02

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO SYLVAN UNION SCHOOL DISTRICT FOR AN EXPANSION TO THE EXISTING PARKING LOT AND A FUTURE ON-SITE PORTABLE BUILDING LOCATED AT 605 SYLVAN AVENUE (SYLVAN UNION SCHOOL DISTRICT)

WHEREAS, on June 27, 1974 the Board of Zoning Adjustment by Resolution No. 531 approved a conditional use permit for district offices and required on-site parking for the Sylvan Union School District at the above mentioned location, and

WHEREAS, an application for a Conditional Use Permit for an expansion to the existing parking lot and a future on-site portable building located at 605 Sylvan Avenue, was filed by SKW & Associates on behalf of Sylvan Union School District on January 9, 2009; and

WHEREAS, Sections 10-1.202(a) and 10-2.2503 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on March 26, 2009, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this project is Categorically Exempt under Section 15332 of the CEQA Guidelines which pertains to in-fill Development Projects, which states: Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

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

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
2. The proposed project is exempt from CEQA under Section 15332 of the CEQA Guidelines, because the project occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, would not result in any significant effects relating to traffic, noise, air quality, or water quality, and can be adequately served by all required utilities and public services.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for 605 Sylvan Avenue be granted subject to the following conditions:

1. All development shall conform to the site plan and elevations titled "Sylvan Union School District – District Office Parking Lot Expansion", 605 Sylvan Avenue, Modesto, CA 95350", as amended in red and stamped approved by the Board of Zoning Adjustment on March 26, 2009.

2. Prior to the issuance of a Building Permit, all site improvement plans, including all utility and stormwater management plans, shall be prepared, stamped and signed 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 and current City Standards.
3. Prior to the issuance of a Building Permit, all applicable connection, wastewater capacity and plan check fees shall be paid in full to the City of Modesto as acceptable to the City Engineer. Applicable fees will be determined at the time of plan site design and/or plan approval.
4. For all work within the public right-of-way, applicant shall obtain an Encroachment Permit. Prior to the issuance of this permit, all improvement plans shall be designed to current City of Modesto Standard Specifications acceptable to the City Engineer.
5. Prior to the issuance of a Building Permit, applicant shall submit plans showing new curb and gutters along the new parking lots and new paved driveway perimeters, as requested by the Board of Zoning Adjustment in accordance with City of Modesto Standard Specifications, acceptable to the Chief Building Official or designee.
6. Prior to the issuance of a Building Permit, applicant shall submit building elevation plans for the purposed portable building; said building shall be treated and painted to be consistent with other existing buildings on-site.
7. Prior to the issuance of a Building Permit, applicant shall submit plans to Land Development Engineering for the removal of the existing driveways along Sylvan Avenue fronting the proposed property and re-construct sidewalk per City of Modesto Standard Specifications, acceptable to the City Engineer.
8. Prior to the issuance of a Building Permit, landscape and irrigation plans in compliance with current City Standards and Municipal Code requirements shall be submitted for approval by the Director of Parks, Recreation and Neighborhoods or designee. All landscape and irrigation plans shall include the following: (a) screen landscaping along the north property line (along side the existing block wall) and along the southwest corner of the existing portable buildings, and (b) 1 shade tree planted per 8 parking lot stalls and to be able to provide 50% parking lot area shade coverage within 10 years; plan should indicate and identify all existing and proposed parking lot shade trees.
9. Prior to the removal of any street trees, the developer shall obtain permission from the City of Modesto's Urban Forestry Division.
10. Prior to the placement or construction of future buildings, an on-site fire hydrant will be needed 150 feet north of the western driveway, north of the west right-of-way of stalls of the west parking lot. Hydrant shall be installed according to Modesto City Standards.
11. Emergency vehicle accesses apart from the main parking lot driveway shall be constructed in a manner to allow the safe passage of safety

vehicles of 30 tons, with curb cuts to the accesses installed according to City Standards, painted red and labeled "No Parking".

12. Per the City of Modesto Storm Drainage Interim Policy dated September 8<sup>th</sup>, 2008, No Positive Storm Drainage System – For areas where no positive storm drainage is available, (Rockwell areas) the following design criteria is applicable:
  - a. The volume of the 100-year, 24-hour storm ( $R = 2.88''$ ) must be completely contained on-site and percolate within 48 hours. A minimum of 50% of the volume shall be stored underground or in a basin in the percolation area. The other 50% of the storm volume may be stored above ground within the on-site top-of-curb provided the 100-year, 24-hour water level is at least 1' below the building(s) finished floor elevation.
  - b. Prior to submittal of improvement plans, a geotechnical boring and percolation report are required. Percolation test shall be in the proposed percolation areas and at the correct depth. An absorption rate based on the observed percolation rate (with a minimum safety factor of 2) should be incorporated into the system.
13. Prior to the issuance of a Grading or Building Permit, Developer shall provide an Erosion and Sediment Control Plan for construction project. Erosion and Sediment Control Plan shall be 24" x 36" and included in the project Improvement Plans/Civil drawings.
14. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan for trash enclosure(s):
  - a. To be sufficiently elevated to prevent stormwater run-on from parking lot, and
  - b. To be graded to drain to adjacent landscape area(s), and
  - c. To comply with the provisions of Public Resources Code Section 42911, and be built to City Standards and Guidelines, to include adequate, accessible and convenient areas for the collection and loading of recyclable materials.
15. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to retain and infiltrate stormwater runoff on site, incorporating pervious landscape features into the project design wherever possible per City Standards.
16. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.
17. Prior to the issuance of a Grading or Building Permit, property owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording.

18. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.
19. Existing underground and overhead electric facilities and existing irrigation lines within the project site shall be removed, protected, or relocated as required by the MID and the City Engineer or designee. Appropriate easements for electric facilities and irrigation lines to remain shall be dedicated as necessary.
20. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
21. 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.
22. 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 Board of Zoning Adjustment Resolution No. 531 not in conflict with this action shall remain in full force and effect.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the conditional use permit granted on March 26, 2009 becomes null and void if not exercised on or before March 26, 2012.

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

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on March 26, 2009, by Ryan Swehla, who moved its adoption, which motion was seconded by Will Grover and carried by the following vote:

Ayes:	Brandvold, Grover, Neumann and Swehla
Noes:	Saxton
Absent:	Bergman
Recused:	Pollard

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

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