

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2022-05

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ELIJAH OLIVER TO ALLOW AN OUTDOOR RECREATIONAL FIELD, MODESTO AIRSOFT, ON THE EXISTING SITE OF THE WELL COMMUNITY FELLOWSHIP CHURCH, PROPERTY LOCATED IN THE SPECIFIC PLAN HOLDING ZONE APPROVED FOR BUSINESS PARK (BP) LAND USES IN THE VILLAGE ONE SPECIFIC PLAN AT 2500 CLAUS ROAD.

WHEREAS, an application for a Conditional Use Permit for an outdoor recreational field (Modesto Airsoft) on the existing site of the Well Community Fellowship Church located in the Specific Plan Holding (SP-H) Zone approved for Business Park (BP) uses in the Village One Specific Plan located at 2500 Claus Road, was filed by Elijah Oliver on March 28, 2022; and

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

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on May 26, 2022, in accordance with Executive Order N-29-20, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed conditional use is exempt from CEQA, pursuant to Section 15301 of the CEQA Guidelines, which exempts existing facilities that include the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination; and

WHEREAS, the proposed conditional use is exempt from CEQA, pursuant to Section 15304 of the CEQA Guidelines, which exempts minor alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purpose; and

WHEREAS, the proposed conditional use is exempt from CEQA, pursuant to Section 15311 of the CEQA Guidelines, which exempts construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.

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

1. The proposed conditional use permit is consistent with the objectives and requirements of Title 10 (Zoning Regulations) because the regulations allow for churches and places of worship in the Specific Plan Holding (SP-H) Zone upon securing a Conditional Use Permit from the Board. This includes any accessory recreational activities

2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the proposed use is located in an area designated as "Business, Commercial, Residential" (BCR) in the City of Modesto General Plan which allows for churches and places of worship within the different land use categories.
3. The proposed conditional use will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity because:
 - a. The proposed outdoor recreation field will be located outdoors with sufficient protective barriers around the perimeter of the fields to provide protection for players, spectators, and the public.
 - b. The location of the proposed outdoor recreation field is separated from the adjacent residential uses by a 175-ft buffer from the western property line and Claus Road, an arterial street.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because:
 - a. The proposed project is located on the grounds of the church and will operate as a ministry open to the general public primarily on weekends during hours that will not conflict with the busiest times of church services.
 - b. The airsoft operation will not conflict with the adjacent agricultural properties, and required parking is available on site.
5. The proposed conditional use is exempt from CEQA, pursuant to Section 15301 of the CEQA Guidelines, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
6. The proposed conditional use is exempt from CEQA, pursuant to Section 15304 of the CEQA Guidelines, which exempts alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes.
7. The proposed conditional use is exempt from CEQA, pursuant to Section 15311 of the CEQA Guidelines, which exempts construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for 2500 Claus Road for an airsoft operation open to the public be granted subject to the following conditions:

1. Prior to issuance of a site improvement permit or building permit, all development shall conform to the site plan "Modesto Airsoft at 2500 Claus Road", as amended in red and stamped approved by the Community and Economic Development Director or designee on May 26, 2022.
2. The facility shall adhere to the provisions of the City's Noise Regulations as outlined in Title 4, Chapter 9 of the Modesto Municipal Code.
3. The proposed project shall install 7-ft (seven foot) high protective fencing around the perimeter of both "Field 1" and "Field 2" as designated on the Site Plan submitted. Additionally, the installation and construction of any wood or metal shade covers at the designated site shall require approval by the City of Modesto Planning and Building Divisions.
4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
5. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
6. Project approval shall become null and void five (5) years following the effective date of approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion.

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 May 26, 2022, by Board Member Vohra , who moved its adoption, which motion was seconded by Board Member Niskanen and carried by the following vote:

Ayes:	Blom, Niskanen, Riddle, Vohra, Goriel
Noes:	None
Absent:	Dasai
Recused:	None

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

Steve Mitchell, Secretary

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