

PLANNING COMMISSION
RESOLUTION NO. 2017-04

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT TO P-D(37), PROPERTY LOCATED AT 819 SUNSET AVENUE (TA MODESTO 819 SA, LP)

WHEREAS, Planned Development Zone, P-D(37), was approved by the City Council by Ordinance No. 878-C.S., which became effective on April 10, 1968, to allow for the expansion of the existing recreational facilities of the Sportsmen of Stanislaus Health Club in addition to new health club facilities on property located at 819 Sunset Avenue; and

WHEREAS, a verified application for an amendment to P-D(37) was filed by TA Modesto 819 SA, LP on November 18, 2016, to allow for the addition of K-12 Charter School to the allowable uses at the site, with conversion of the existing structures for use as educational facilities, new construction of up to 17,350 square feet for educational facilities, and permit the use of the site for a K-12 charter school with parking at 29 spaces fewer than required by the City's Zoning Code for Elementary and High School uses; and

WHEREAS, a public hearing was held by the Planning Commission on February 6, 2017, in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2017-02, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2007072023) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The requested amendment will not be detrimental to the public health, safety or welfare because the project will provide for a new Kindergarten through Grade 12 charter school to serve the needs of the surrounding community.
2. The requested amendment will result in an orderly planned use of land because the project will allow for the conversion of an existing health club facility into a new elementary through high school educational facility.
3. The requested amendment to allow on-site parking at a lower amount than Modesto Municipal Code requirement would not adversely affect operations of the facility because there is an abundance of available on-street parking on the street frontages of the school and nearby Neece Drive, which would provide for additional parking for the school, and the school will maintain a lower student-to-classroom ratio for the high school grades than typical of traditional high schools.

4. The requested amendment is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the K-12 Charter School is consistent with the Mixed Use (MU) land use designation of the site, which allows for institutional uses such as public schools.
5. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
6. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
7. No new or additional mitigation measures or alternatives are required.
8. The subsequent project is within the scope of the project covered by the Master EIR.
9. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
10. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the Council as follows: That P-D(37) be amended to permit the addition of K-12 Charter School to the allowable uses at the site, with remodeling of the existing structures to add 7,560 square feet as a second-story within the existing building square footage for use as educational facilities, allow new construction of up to 17,350 square feet for educational facilities, and permit the use of the site for a K-12 charter school with parking at a level less than is required by the City's Zoning Code for High School use.

IT IS FURTHER RECOMMENDED that a revised development plan for P-D(37) be approved subject to the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the development plan titled "Modesto Charter School, 819 Sunset Avenue, Modesto CA, TA II Acquisition LLC", stamped approved by the City Council on [date to be determined].
2. All conditions of City Council Resolution No. 68-207 not in conflict with this action shall remain in full force and effect.

3. Fencing along the south property line and the street frontages shall be replaced with new fencing to amend existing fencing in poor condition. Wrought-iron fencing is highly recommended for security and durability. Minimum fence height shall be seven (7) feet from grade.
4. Parking lot lighting along the north property line shall be adequately shielded to minimize light spillage or glare upon neighboring residents north of the project site.
5. Bicycle racks shall be provided per the Modesto Municipal Code and Green Building Code.
6. In the event the parking lot layout is changed beyond restriping and rerouting traffic flow, one shade tree for each eight (8) parking spaces shall be provided. Parking lot shade trees shall be located no closer than fifteen (15) feet from parking lot light fixtures.
7. Applicant shall provide street trees along the Roselawn, Neece and Sunset Avenue street frontages.
8. Vehicular access shall be provided to the parking lot from Roselawn Avenue.
9. Prior to issuance of a building permit, new classroom construction shall maintain the minimum setback of ten (10) feet from the Roselawn Avenue frontage and the southerly property line, and the setback areas shall be landscaped.
10. Any public improvements that are missing damaged or not to current City standards shall be designed per City standards in accordance with City Code (Article 7-1.701), standards and specifications. Such improvements may include, but not be limited to curb & gutter, drive approach, sidewalk, ADA access ramps, fire hydrants and street lights. All public improvement plans shall be designed by a Registered Engineer and reviewed and approved by the City Engineer prior to issuance of an Encroachment permit.
11. Prior to issuance of a building or grading permit, plans shall address on-site storm water management and any increase in run-off to off-site areas shall be mitigated in accordance to City and State Standards.
12. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit improvement plans conforming to design requirements of the most current edition of the City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.
13. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to integrate Low Impact Development (LID) principles into the project design. The plan shall retain, treat, and infiltrate

the first 0.5" of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.

14. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, bioretention, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5" of stormwater run-off from site.
15. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot and floor of enclosures shall be graded to drain into adjacent landscape areas.
16. Prior to the issuance of a Grading, Demolition, 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.
17. Prior to the issuance of a Grading or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local SWPPP to Land Development Engineering, Stormwater for review. The submittal shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction site to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement.
18. Prior to issuance of a building or grading permit, Developer shall submit Landscape and Irrigation plans for review and approval by the City's Parks Planning and Development Division. L&I plans shall be compliant with current State of California Model Water Use Ordinance, MMC requirements and City Standards at the time of submittal.
19. On-site fire hydrants shall be provided to meet requirement of spacing and distribution of 500 feet O.C.
20. Modification for the change of use of these buildings shall be in accordance with the California Building Code (CBC) and California Fire Code (CFC).
21. Modifications to the fire sprinkler system shall be in accordance to NFPA 13.
22. Fire Department Connections (FDC) to fire sprinklers are to be within 90-feet of a fire hydrant.
23. A fire alarm system conforming to the requirements of the CFC will be required for existing and new buildings for student use.
24. Fire department access roads are to be provided with an unobstructed 20-foot width, have an all-weather surface, with changes in direction having an inside radii of 20-feet and outside radii of 40-feet and be able to support the load of a 30-ton (60,000-lb) fire apparatus.

25. Access gates plans shall be submitted to Modesto Fire Prevention Division for approval prior to installation.
26. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
27. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
28. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
29. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
30. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction as required by Director of Community and Economic Development.
31. 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 following conditions are recommended mitigation measures from the City of Modesto General Plan Master EIR that should be applied to the project:

32. 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.
33. 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.

34. 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.
35. 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.)
36. 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.
37. 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.
38. Any site with 150 or more vehicle trips per day shall prevent carryout and track out.
39. The project shall comply with the City's noise ordinance. 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. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected.
40. Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES Stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V.E.3[h])

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin on or before February 6, 2017, and be completed by not later than February 6, 2019.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on February 6, 2017, by Commissioner Pollard, who moved its adoption, which motion was seconded by Commissioner Lucas and carried by the following vote:

Ayes:	Escutia-Braaton, Lucas, Pollard, Smith, Vohra
Noes:	None
Absent:	Morad
Recused:	None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

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