

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2014-05

A RESOLUTION GRANTING AN AMENDMENT TO THE CONDITIONAL USE PERMIT FOR THE NEW HOPE RECOVERY TREATMENT FACILITY TO ALLOW A 3,000 SQUARE FOOT OFFICE AND CLASSROOM BUILDING EXPANSION LOCATED AT 823 EAST ORANGEBURG AVENUE

WHEREAS, an application for a conditional use permit for reuse of a former convalescent hospital as a 40-bed drug and alcohol treatment center at 823 East Orangeburg Avenue was approved by the Board of Zoning Adjustment by Resolution No. 2001-11 on August 23, 2001, and

WHEREAS, an application for an amendment to the conditional use permit to allow for a 3,000 square foot office building expansion to the rear of the existing drug and alcohol treatment center located at 823 E. Orangeburg Avenue, was filed by Gene Radino on March 21, 2014; and

WHEREAS, Sections 10-1.302(a) and 10-9.703 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 May 22, 2014, 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, and is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; is within city limits and no more than five acres and surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; will 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.

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

1. The proposed conditional use permit is consistent with the objectives and requirements of Title 10 (Zoning Regulations) because the Code allows Residential Care Facilities and subsequent minor building expansions in the residential zones upon securing a conditional use permit approval from the Board. The purpose and intent of the Low Density Residential (R-1) Zone includes encouraging "a wide variety of residential product types and densities that meet the diverse economic and social needs of all residents".
2. The proposed conditional use and the conditions under which it will operate are consistent with the General Plan because the 3,000 square foot office building expansion is located in an area designated MU, Mixed-Use by the City of Modesto Urban Area General Plan. As building expansions to existing facilities are allowed in residential areas with a Conditional Use Permit, the proposal is therefore consistent with the General Plan.

3. The proposed conditional use will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity because this facility will be required to meet all applicable Zoning, Building and Fire Code Standards, and Stanislaus County Health and Safety Codes.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because the project is a minor office expansion and located towards the rear of the property, and would therefore not create undue conflicts with surrounding residences.
5. The proposed project is categorically exempt from CEQA, in accordance with Guidelines Section 15332, because it involves in-fill development within an urbanized area. The existing office building is located on a project site of no more than five acres within the City of Modesto's Baseline Developed area and surrounded by existing office, commercial and residential uses. The project does not involve the use of significant amounts of hazardous substances, all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for 823 East Orangeburg Avenue be granted subject to the following conditions:

PLANNING

1. Prior to the issuance of a Building Permit, all development shall conform to the Plot Plan titled "Class Room Building New Hope Recovery, 823 E. Orangeburg Avenue, Modesto, CA 95350" as stamped approved by the Board of Zoning Adjustment on May 22, 2014.
2. All conditions of BZA Resolution No. 2001-11 not in conflict with this action shall remain in full force and effect.
3. Prior to the issuance of a Building Permit, any variation from the approved site plan on file with the City must be reviewed and approved by the Director of Community and Economic Development or designee.
4. Prior to the issuance of a Building Permit, all construction documentation shall be coordinated for consistency, including but not limited to, electrical, landscape and irrigation, grading, and utility plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.
5. Prior to issuance of a Building Permit, the developer shall pay all applicable 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.
6. Prior to issuance of a Building Permit, improvement plans for required improvements shall be prepared stamped and signed by a Registered Civil

Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

7. 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. Fees will be determined at the time of plan site design and/or plan approval.
8. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Title 10, Chapter 5, Parking Requirements.
9. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements (1 tree per 8 stalls, 50% coverage within 10 years).
10. Prior to occupancy of any structure, the developer shall submit a lighting plan that includes the location and design of proposed lighting fixtures for review and approval by the Director of Community and Economic Development.
11. Along pedestrian corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps and ramps should be illuminated wherever possible, with built-in light fixtures to the satisfaction of the Director of Community and Economic Development.
12. The design of light fixtures and their structural supports should be architecturally compatible with the main structures on the site. Light fixtures should be architecturally integrated into the design of a structure to the satisfaction of the Director of Community and Economic Development.
13. Prior to occupancy of any structure, 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 the adequate shielding of lighting fixtures to minimize glare or light spillage upon neighboring residents to the north of the project site. The height of the lighting fixtures in the area between the north property line and the north elevation of the building should not exceed 15 feet above grade.
14. All landscaping, walls, existing perimeter fencing and future fencing as required by conditional use permit approval, shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
15. All signs shall comply with the sign requirements of the R-1 Zone.
16. At the time of issuance of a building permit, the applicant 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.
17. Prior to issuance of a Building Permit, plans shall be stamped and signed by a licensed Architect or Engineer.

18. Prior to issuance of any City permit, the applicant shall submit a cross-section drawing, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the roof edge and placed behind a parapet wall or in an enclosure, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.
19. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development. Equipment shall be placed underground or adequately screened through the use of landscaping or masonry walls.
20. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development.
21. Prior to issuance of an building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director.
22. Prior to issuance of any City permit, all refuse and recyclable material bin enclosures should be screened with landscaping on all sides, with the exception of the gate area. All sides of the enclosure, with the exception of the gate area, should be surrounded by a minimum 18" wide planter area for the purpose of providing landscape material to the satisfaction of the Community and Economic Development Director.

#### LAND DEVELOPMENT ENGINEERING

23. 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, reviewed and approved by the City Engineer prior to issuance of an Encroachment permit.

#### STORM WATER QUALITY

24. 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.

25. Prior to the issuance of a Grading or Building Permit, Developer shall provide improvement plans for project, conforming to the City of Modesto 2011 Guidance Manual for Development Stormwater Quality Control Measures.
26. 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 (Low Impact Development) features into the project design.
27. 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.
28. 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.

#### LANDSCAPING

29. Applicant shall submit Landscape and Irrigation plans for review and approval by the Park Planning and Development Division. Landscape and Irrigation plans shall meet current State of California water use requirements, MMC requirements and City of Modesto standards at time of submittal.
30. Applicant shall provide a landscape and irrigation design that does not allow storm water or irrigation water runoff on to hardscape; all water shall be contained on site.

#### BUILDING SAFETY

31. **Visitor bike parking** - Provide permanently anchored bicycle racks within 200 feet of the entrance, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack.
33. Provide secure bicycle parking for **tenant-occupants**. Provide 5 percent of motorized vehicle parking capacity, with a minimum of one bicycle parking space. Acceptable parking facilities shall be convenient from the street and may include:
  1. Covered, lockable enclosures with permanently anchored racks for bicycles;
  2. Lockable bicycle rooms with permanently anchored racks; and
  3. Lockable, permanently anchored bicycle lockers.
34. Provide designated parking spaces for low-emitting, fuel-efficient or carpool/van pool vehicle.

#### GENERAL

35. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy,

Green codes adopted by the City of Modesto. Applications received after December 31, 2013 are subject to the 2014 Codes.

36. 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.
37. All landscaping, walls, existing perimeter fencing and future fencing as required by conditional use permit approval, shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
38. Prior to the issuance of a Building Permit, 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.
39. The Capital Facilities Fees payable at the time of the issuance of any City permit for any construction in this development shall be based on the rates in effect at time of issuance of the City permit.
40. 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.
41. Project approval shall become null and void two (2) 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.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on May 22, 2014, and that if a protest is not filed within this ninety (90)-day period complying

with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on May 22, 2014, by Hank Pollard, who moved its adoption, which motion was seconded by Vladimir Rodriguez and carried by the following vote:

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

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary