

PLANNING COMMISSION  
RESOLUTION NO. 2017-20

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 19-3-5 OF THE ZONING MAP TO REZONE FROM REGIONAL COMMERCIAL (C-3) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(603) PROPERTY LOCATED AT 1240 N. 9<sup>TH</sup> STREET (JUAN TORRES)

WHEREAS, a verified application for an amendment to Section 19-3-5 of the Zoning Map was filed by Juan Torres on May 3, 2017, to rezone from Regional Commercial (C-3), to Planned Development Zone, P-D(603), to allow Light Industrial (M-1) uses and the development of the site for a 17,000 square foot warehouse and office building, property located at 1240 N. 9<sup>th</sup> Street described as follows:

C-3 to P-D:

A portion of these certain parcels of land described in deeds to the State of California, recorded February 23, 1957, in Book 1413, Page 322, and January 16, 1957, in Book 1405, Page 263, thence in official records, of Stanislaus County, situate in Section 19, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

Beginning at the Northwest corner of said parcel recorded February 28, 1957; thence along the north line of last said parcel, north 89° 35' east, 294.24 feet; thence from a tangent that bears south 15° 37' 55" east, along a curve to the right having a radius 1,500 feet, through an angle of 12° 56' 20", a distance of 338.74 feet; thence south 2° 41' 35" east, 38.66 feet to the southwesterly line of said parcel recorded January 16, 1957; thence along 1957, north 43° 23' west, 509.35 feet to the point of beginning.

WHEREAS, a public hearing was held by the Planning Commission on August 21, 2017, in 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 2017-17, 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 change will not be detrimental to the public health, safety, or welfare because the rezoning to Planned Development would provide for a Light Industrial development that is compatible with surrounding high density residential, commercial and industrial uses.
2. The requested change will result in an orderly planned use of land because the design features of the project and the conditions of approval will ensure that the project is compatible with the adjacent uses.

3. The requested change is in accordance with the community's objectives as set forth in the General Plan. The General Plan designates the site as Redevelopment Planning District (RPD). The General Plan states, "Residential and employment opportunities shall be distributed throughout the Planning District, in accordance with the 'Land Use Strategies' diagram on page 35 of the 'Modesto Redevelopment Master Plan', adopted by the Redevelopment Agency in October, 2007". According to the diagram, this property is located within Area 1 "North Carpenter Road". The stated vision for Area 1 promotes the intensification of the existing auto-intensive land uses (i.e warehousing, home improvement businesses and corporation yards) and supporting them with more efficient infrastructure. The proposed development plan would therefore conform to the General Plan because the development of a contractor office and warehouse building would align with the vision of the Redevelopment Master Plan.
4. 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.
5. 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, which was not identified in the Master EIR.
6. No new or additional mitigation measures or alternatives are required.
7. The subsequent project is within the scope of the project covered by the Master EIR.
8. 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.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the Council as follows:

#### SECTION I

That Section 19-3-5 of the Zoning Map be amended to rezone from Regional Commercial (C-3) to Planned Development Zone, P-D(603), the above-described property in accordance with the following conditions:

#### PLANNING

1. All development shall conform to the revised development plan, building elevations, design guidelines, and sign program stamped

approved by the Community and Economic Development Director or designee.

2. The landscaping provided in front of the west side of the building shall be designed to soften the building. Prior to issuance of a building permit, landscape and irrigation plans shall be reviewed by the Community and Economic Development Director or designee.
3. Prior to issuance of a 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.
4. Prior to issuance of a building permit, the developer shall submit a lighting plan that includes the location and design of proposed lighting fixtures for review and approval by the Community and Economic Development Director.
5. All signs shall conform to the City of Modesto Zoning Ordinance for signs located in the M-1 Zone.
6. Prior to issuance of a sign permit the developer shall submit plans for review and approval to the satisfaction of the Community and Economic Development Director or designee. The sign shall be reviewed for conformance with the City's Zoning Code.
7. Prior to issuance of building 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 or designee. 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.
8. 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 or designee. Equipment shall be placed underground or adequately screened though the use of landscaping or masonry walls.
9. Prior to issuance of building permit the developer shall submit updated building elevations to the Planning Division for review and approval to the satisfaction of the Community and Economic

Development Director or designee. The plans shall be reviewed for conformance with the City’s Commercial and Industrial Guidelines.

10. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
11. 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 or designee.
12. Where changes in a parapet height occur, a return into the building should be provided, for a distance of at least 6 feet, so that the thickness of the wall panel cannot be observed or readily discerned by the public.
13. Areas designated for off-street parking, loading, circulation and maneuvering shall not be used for the outdoor storage of materials or equipment.
14. The driveway aisle at the rear of the building must not be gated. It will remain open for public access to the rear parking.
15. The parallel parking spaces behind the building, at the north and east boundaries of the property, must comply with Section 10-5.105 of the Zoning Code and measure at least 8 feet wide by 22 feet long.

**BUILDING SAFETY**

16. Prior to occupancy, the developer shall provide permanently anchored bicycle racks within 200 feet of each visitors entrance, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack to the satisfaction of the Chief Building Official.
17. Prior to occupancy, the developer shall provide designated parking for any combination of low-emitting, fuel-efficient and carpool/van pool vehicles as follows:

<b>TOTAL NUMBER OF PARKING SPACES</b>	<b>NUMBER OF REQUIRED SPACES</b>
0-9	0
10-25	1
26-50	3
51-75	6

Paint, in the paint used for stall striping, the following characters such that the lower edge of the last word aligns with the end of the stall striping and is visible beneath a parked vehicle:

**CLEAN AIR VEHICLE**

FIRE PREVENTION

18. Fire Hydrant spacing and distribution shall be 300' feet O.C. Onsite fire hydrant(s) will be required.
19. Installation of fire mains, valves and hydrants shall be in accordance with City of Modesto Standard Specifications.
20. Buildings shall be equipped with automatic fire sprinkler system installed in accordance with 2016 NFPA 13.
21. An automatic fire sprinkler system will be required for buildings greater than 5,000 s.f. to the satisfaction of the Fire Marshal
22. If applicable, plans for electronically controlled vehicle access gates shall be submitted to and approved by the Fire Marshal prior to installation.
23. A fire hydrant will be required within 90 feet of the Fire Department Connection (FDC) for fire sprinklers.

PARKS PLANNING

24. Applicant shall submit Landscape and Irrigation plans for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current State of California water use requirements, MMC requirements and City of Modesto standards at time of submittal.
25. Applicant shall provide a minimum ten (10') foot landscaped setback from 9<sup>th</sup> Street.
26. Applicant shall provide street trees along 9<sup>th</sup> Street spaced thirty five (35') feet on center and located within seven feet (7') of the sidewalk or curb.
27. Applicant shall install parking lot shade trees per MMC requirements; one (1) shade tree for every eight (8) parking spaces for all perpendicular parking stall locations, within seven (7) feet of stalls.
28. Applicant shall install the required three (3') foot high screening for car headlights from parking stalls potentially impacting 9<sup>th</sup> Street.
29. Applicant shall install a separate landscape water meter.

30. The landscape design can include accent landscaping to be installed at the driveways and office entries for visual connectivity to employees, visitors, delivery trucks and street traffic.
31. LID control and treatment measures shall be vegetated for erosion protection and sediment entrapment to collect/treat storm water runoff before entering the storm drain system. Storm drainage basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure.
32. Climbing vines shall be included in the landscape surrounding the trash enclosures to discourage tagging.

#### SOLID WASTE

33. All trash enclosures must meet the City's size and design requirements.

#### LAND DEVELOPMENT ENGINEERING

##### Transportation:

34. Driveways on 9<sup>th</sup> Street shall be constructed per City Standards.
35. The southern driveway may allow for left turns entering and possibly exiting. A southbound left-turn lane and taper on 9<sup>th</sup> Street shall be designed and constructed to the proper length for the posted speed. Design and construction of the center median area to allow vehicles to make left turns out of the driveway may be allowed but will require review and approval of the City Engineer. This median opening is currently being used for u-turns and the median design may need to accommodate this movement.
36. Street improvements including, but not limited to curb, gutter, sidewalk, street lights and storm drainage shall be designed and constructed per City of Modesto Standards.
37. No parking shall be allowed on 9<sup>th</sup> Street.

##### Sewer:

38. There is an existing 6- inch water main in 9<sup>th</sup> street that is available for connection and with adequate capacity for the uses expected demand. Any new connection to the water main shall pay water connection fees and an Encroachment permit shall be issued by the City prior to any connection.

##### Water:

39. There is an existing 10 –inch water main in 9<sup>th</sup> street that is available and adequately sized. For any new water connection, water connection fees shall be paid and an encroachment permit issued by the City prior to connection.

Storm Drain:

40. There is no positive storm drainage system in the area fronting the property on 9<sup>th</sup> street. Some sort of underground storage or rockwell must be designed and constructed to accommodate street runoff. The project shall manage the on-site storm water runoff on the property per current City of Modesto standards.

Storm Water Quality:

41. 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.
42. 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 run-off on site, and incorporate pervious landscape features into the project design wherever possible.
43. 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.
44. 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.
45. 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
46. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board (SWRCB) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ.
47. The Construction General Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. The SWPPP shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction or demolition 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. Prior to

issuance of a Grading, Demolition, or Building Permit, provide one paper copy of SWPPP to Land Development Engineering, Stormwater.

GENERAL

48. 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.
49. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Community and Economic Development Director.
50. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.
51. 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.
52. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
53. 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.

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

MEIR Table V-8-1 (b-f):

54. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.



55. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
56. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.
57. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.
58. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

SECTION II

BE IT FURTHER RESOLVED that the following uses shall be authorized in said Planned Development Zone as shown on the development plan:

Uses allowed in the Light Industrial (M-1) Zone

SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin on or before two (2) years from the adoption of the rezone to Planned Development P-D(603) by the City Council, and completion to be not later than three (3) years from the date of adoption.

SECTION IV

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that they adopt a resolution certifying that the rezoning is within the scope of the General Plan EIR.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on August 21, 2017, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Vohra and carried by the following vote:

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

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary