

PLANNING COMMISSION
RESOLUTION NO. 2018-15

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 12-3-8 OF THE ZONING MAP TO REZONE 2.25 ACRES FROM R-1 ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(605) PROPERTY LOCATED ON THE NORTHWEST CORNER OF RUMBLE ROAD AND CONANT AVENUE (ALI PROPERTIES LLC/ANGEL FAMILY TRUST)

WHEREAS, a verified application for an amendment to Section 12-3-8 of the Zoning Map was filed by Ali Properties LLC and the Angel Family Trust on June 29, 2018, to rezone 2.25 acres from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(605), to allow a new 50-unit apartment complex on property located at the northwest corner of Rumble Road and Conant Avenue described as follows:

R-1 to P-D

All that portion of Lot 1 of McKinney Colony, according to the Official Map or Plat thereof on file and of record in the Recorder's Office of Stanislaus County, California, and particularly described as follows, to wit:

Beginning at the southeast corner of Lot 10 of McKinney Colony; thence North along the easterly line of said Lot 240 feet to a point in said line; thence running West parallel with the southerly line of said Lot 10, 372.31 feet to a point; thence South parallel with the easterly line of said Lot 10, 240 feet to a point in the south line of said Lot 10; thence easterly along the southerly line of said Lot 10, 372.31 feet to the point of commencement.

Also including the west one-half of Conant Avenue and the north one-half of Rumble Road, being immediately adjacent to this description.

Totaling 2.25 acres, more or less.

APN: 076-042-007

WHEREAS, a public hearing was held by the Planning Commission on December 3, 2018, 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 2018-20, 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 proposed development will conform to City standards.
2. The requested change will result in an orderly planned use of land because the conditions of approval will ensure that the proposed project is compatible with the adjacent residential uses, and there are other apartment complexes located on this section of Rumble Road in close proximity to the proposed development.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the proposed change to Planned Development allowing for new multi-family residential uses is consistent with the Modesto Urban Area General Plan, which designates the property as Mixed Use (MU), which allows for multi-family residential uses.
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, that 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.
9. 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:

SECTION I

That Section 12-3-8 of the Zoning Map be amended to rezone from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(605), the above-described property in accordance with the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the Development Plan and building elevations titled "Rumble Road Multi-Family Housing" stamped approved by the City Council.
2. The wall along the north and west property lines shall be a 7-foot high solid decorative masonry wall as shown in red on the site plan, and be constructed prior to occupancy of any structure.
3. Screen landscaping shall be installed along the north and west property lines of the project site, as approved by the Parks, Recreation and Neighborhoods, prior to certificate of occupancy for the first building.
4. 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 for the residential buildings, as approved by the Community and Economic Development Director. Climbing vines shall be included in the landscape surrounding the trash enclosures to discourage tagging.
5. 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.
6. 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.
7. All signs shall comply with the sign requirements of the R-3 Zone.
8. Sizing and number of monument signs shall be in accordance to the requirements of the R-3 Zone. Placement of such signs shall be seventeen (17) feet back from the flow line of the street to ensure clear line of sight for vehicles exiting the development.
9. Prior to issuance of a sign permit, individual sign plans for the project shall be submitted for separate review and approval prior to installation.
10. 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.
11. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.

12. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are be completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.
13. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-5.105, Parking Lot Design Standards.
14. 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).
15. All improvements shall be designed and constructed per City standards in accordance with City Code (Article 7-1.701). Such improvements will include, but not be limited to roadway, storm drainage, curb and 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.
16. Prior to issuance of a building or encroachment permit, ten-feet of right-of-way along the Rumble Road frontage shall be dedicated.
17. Prior to issuance of a building or encroachment permit, ten-foot-wide public utility easements shall be dedicated along the frontages of Rumble Road and Conant Avenue.
18. There is an existing 39-in sewer trunk in Rumble Rd, an existing 6-in sewer fly-line main in Rumble Rd and, a 6-in sewer main in Conant Ave. The existing 6-in mains are not available for new services. The 39-in trunk conveys flow to a 48-in trunk in Conant Ave. The 39-in sewer trunk and downstream sewer facilities have adequate capacity for the anticipated sewer flow demands from this proposed 50-unit apartment project. A new manhole would be required on the Rumble Rd sewer trunk to extend a new service to this proposed project.
19. The project shall manage storm water runoff on-site according to current City standards. Calculations and percolation test shall be submitted to the City for review and approval with the submittal of the improvement plans, prior to issuance of a building permit.
20. 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 City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.
21. 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.
22. 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.
 23. 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. Floor of enclosures shall be graded to drain into adjacent landscape areas.
 24. 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.
 25. 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.
 26. 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.
 27. Prior to issuance of a building permit, applicant shall submit Landscape and Irrigation plans for review and approval by the City's Parks 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.
 28. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Code.
 29. Applicant shall provide street trees along Rumble Road and Conant Avenue to the satisfaction of the Parks Planning and Development Manager.
 30. LID control and treatment measures shall be vegetated for erosion protection and sediment entrapment to collect/treat storm water run-off 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. Provide total square feet of landscape in project information.

31. 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.
32. 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.
33. 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 Director of Community and Economic Development.
34. Prior to Certificate of Occupancy for any structure, the applicant shall enroll and participate in the City's Crime-Free Multi-Family Housing Program as administered by the Modesto Police Department.
35. 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.
36. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
37. 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.
38. 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.
39. 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.

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

40. 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.
41. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
42. 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.
43. 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.
44. 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.)
45. 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.
46. 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.
47. Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions:

48. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
49. Install wind breaks at windward side(s) of construction areas.
50. Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation).
51. Limit the area subject to excavation, grading, and other construction activity at any one time.

52. The City has also established a noise ordinance to control noise within the City. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."
53. Additionally, the noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
- a. A hammer, or any other device or implement used to pound or strike an object.
 - b. An impact wrench, or other tool or equipment powered by compressed air.
 - c. A hand-powered saw.
 - d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
 - e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
 - f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), piledriving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
 - g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
54. 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.

- 55. New development shall comply with City requirements for conveyance, retention and detention. New development shall include onsite storage of Stormwater as necessary. Rockwells shall not be allowed for new development except at infill areas smaller than three acres where no other feasible alternative is available.
- 56. 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.

SECTION II

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

- 57. Residential uses as allowed in the Medium-High Density Residential (R-3) Zone.

SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin on or before December 3, 2020, and completion to be not later than December 3, 2022.

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 December 3, 2018, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Lucas and carried by the following vote:

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

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

Original, signed copy on file in CEDD
Steve Mitchell, Acting Secretary