

PLANNING COMMISSION  
RESOLUTION NO. 2019-01

A RESOLUTION RECOMMENDING THE CITY COUNCIL MAKE CERTAIN FINDINGS CONCERNING MITIGATION OF ENVIRONMENTAL IMPACTS, MAKE FINDINGS CONCERNING ALTERNATIVES, ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFY THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN AREA GENERAL PLAN (SCH NO. 2014042081)

WHEREAS, on October 14, 2008, the Modesto City Council certified the Master Environmental Impact Report ("EIR") (SCH No. 2007072023) for the Modesto Urban Area General Plan ("UAGP");

WHEREAS, the City of Modesto ("City") has completed a subsequent amendment to the Urban Area General Plan ("Project");

WHEREAS, the City, on April 29, 2014, published a Notice of Preparation for the Project, which identified the Project and potentially significant environmental impacts attributable to the Project, on which basis the City determined that an EIR was required for the Project;

WHEREAS, on May 21, 2014, the City held a public scoping meeting to receive public comments regarding the scope and content of the Master EIR;

WHEREAS, the City published and distributed a Draft Master EIR for the Project (SCH No. 2014042081) for public comment on June 25, 2018, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA");

WHEREAS, the Draft Master EIR was available for public comment for a period of at least 45 days as required by Section 21091 of CEQA, the close of the public comment period being August 10, 2018;

WHEREAS, during the 45-day public comment period the City received 31 individual written comments, mostly submitted electronically;

WHEREAS, the City prepared written responses to all written comments received from reviewers of the Draft Master EIR, said responses being contained in a Final Master EIR for the Project (SCH No. 2014042081) ("Final MEIR") prepared pursuant to Section 15089 of the CEQA Guidelines;

WHEREAS, the Final Master EIR was published and distributed on January 18, 2019, and consists of the Draft EIR, a list of commenters, copies of all written comments received, responses to those comments, and any revisions to the text of the Draft Master EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines;

WHEREAS, CEQA requires that, in connection with the approval of a project for which an EIR has been prepared which identifies one or more significant environmental effects, the lead agency responsible for said project make certain findings regarding those effects;

WHEREAS, the Final Master EIR identified several potentially significant impacts that will be reduced to a less than significant level due to specified UAGP policies. Approval of the Project by the City Council will therefore require adoption of findings on impacts and mitigating policies;

WHEREAS, the Final Master EIR identified significant and unavoidable environmental impacts of the project and approval of the Project by the City Council will therefore require adoption of Findings and a Statement of Overriding Considerations;

WHEREAS, a public hearing on the Project was held by the Planning Commission on January 28, 2019, at 6:00 p.m. in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered;

WHEREAS, a Staff Report for the Planning Commission, dated January 28, 2019, and incorporated herein by reference, described and analyzed the Project and contained information on the Final Master EIR; and,

WHEREAS, the Planning Commission has received and considered the Final Master EIR for the Urban Area General Plan amendment (SCH No. 2014042081) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission, that it hereby recommends that the City Council review and analyze the Final Master EIR and other information in the record, and take such other actions as are necessary and appropriate to make the following findings:

1. That the Final Master EIR has been completed in compliance with CEQA and adequately describes the proposed Project, its significant environmental impacts, mitigating policies and a reasonable range of alternatives to the proposed Project; that the City Council has reviewed and analyzed the Final MEIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final Master EIR and the Project, prior to acting upon or approving the Project; and that the Final Master EIR represents the independent judgment of the City of Modesto. The Final MEIR provides information to the decision-makers and the public on the environmental consequences of the proposed Project;
2. That the Findings and recommendations set forth in Exhibit "A," and incorporated herein by reference, be made by the City Council as the City's findings under CEQA (**Pub. Resources Code § 21000 et seq.**) and the CEQA Guidelines (Ca. Code Regs., **Title 14, §15000 et seq.**) relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the Project's environmental impacts, mitigating policies and alternatives to the Project;
3. That pursuant to Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 et seq., the City Council of the City of Modesto adopts and makes the following statement of overriding considerations regarding the

remaining unavoidable impacts of the Project and the anticipated economic, social and other benefits of the Project.

a. Significant Unavoidable Impacts

With respect to the foregoing findings, as set forth in Exhibit "A," and in recognition of those facts which are included in the record, the City has determined the following:

- i. that the Project will cause significant, unavoidable impacts to Traffic and Circulation, Air Quality and GHG Emissions, Generation of Noise, Effects on Agricultural Lands, and Potential Demolition of Significant Historical Structures, as described in Exhibit "B;" and,
- ii. that the Project will contribute to significant, unavoidable cumulative impacts to Traffic and Circulation, Air Quality and GHG Emissions, Generation of Noise, Effects on Agricultural Lands, and Loss of Sensitive Wildlife and Plant Habitat, as described in Exhibit "B."

These impacts cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted.

b. Overriding Considerations

The City Council specifically adopts and makes this Statement of Overriding Considerations that this Project includes all feasible measures that would eliminate or substantially lessen the significant impacts of the Project on the environment, and that the remaining significant, unavoidable impacts of the Project are acceptable in light of the environmental, economic, social and other considerations set forth herein because the benefits of the Project outweigh the significant and adverse impacts of the Project. The City Council finds that each of the overriding considerations set forth below, and each of the overriding considerations set forth in Exhibit "B," constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and sets forth an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record.

c. Benefits of Proposed Project

The City Council has considered the Final Master EIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and does hereby determine that implementation of the Project as specifically provided in the Project documents would result in the substantial public benefits described in Exhibit "B."

The City Council has weighed the benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final Master EIR and hereby determines that those benefits outweigh the risks and adverse environmental effects and, therefore, further determines that these risks and adverse environmental effects are acceptable;

4. The City Council hereby finds and recognizes that the Final MEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Master EIR for the Project and also incorporates information obtained by the City since the Draft Master EIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the Project and do not reflect any substantial increase in the severity of any environmental impact; that no feasible mitigation measures considerably different from those previously analyzed in the Draft Master EIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the Draft Master EIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the Final Master EIR for further public review and comment is not warranted;
5. The City Council does hereby designate the Community and Economic Development Director of the City of Modesto, at his office at 1010 Tenth Street, Modesto, California 95354, as the custodian of documents and record of proceedings on which the decision is based; and,
6. The City Council does hereby make the foregoing findings with respect to the significant effects on the environment of such Project, as identified in the Final Master EIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the Final MEIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the Draft Master EIR and were not adopted as part of the Final Master EIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final Master EIR and elsewhere in the record which are incorporated herein by reference.

BE IT FURTHER RESOLVED by the Planning Commission that it hereby recommends to the City Council that, prior to the approval of the Project, certify the Final Master EIR for the Urban Area General Plan amendment (SCH No. 2014042081), attached as Exhibit "C" as complete, adequate and in compliance with CEQA. The Planning Commission further recommends that the City Council make all environmental findings required under CEQA for Project approval as set forth in Exhibits "A" and "B," and adopt a Statement of Overriding Considerations for the Project.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on January 28, 2019, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Pollard, and carried by the following vote:

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

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

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Steve Mitchell, Secretary

Attachments:

Exhibit "A" Statement of Findings of Significant Impacts and Rejection of Alternatives  
Exhibit "B" Statement of Overriding Considerations  
Exhibit "C" Final Master Environmental Impact Report for the Urban Area General Plan

**EXHIBIT "A"**

**STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS  
AND REJECTION OF ALTERNATIVES**

**EXHIBIT "B"**

**STATEMENT OF OVERRIDING CONSIDERATIONS**

**EXHIBIT "C"**

**FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE CITY OF  
MODESTO URBAN AREA GENERAL PLAN AMENDMENT 2040**

Final documentation on file with the Planning Division of the Community and Economic Development Department.