

PLANNING COMMISSION
RESOLUTION NO. 2019-30

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO PLANNED DEVELOPMENT ZONE P-D(602), PROPERTY LOCATED AT 1192 NORWEGIAN AVENUE (1192 NORWEGIAN MODESTO LP)

WHEREAS, on August 14, 1979 by Ordinance 1867-C.S. and Resolution No.79-844 the Modesto City Council adopted Planned Development Zone P-D(237) that allowed a legally established but non-conforming broadcasting studio and parking lot on property located at 1192 Norwegian Avenue; and

WHEREAS, since adoption, the broadcast studio building was demolished and site vacated except for an existing radio broadcasting tower associated with the former broadcast studio, with cellular equipment and a cellular equipment lease area, which remains at the site; and

WHEREAS, on August 8, 2017 by Ordinance No. 3677-C.S. and Resolution No. 2017-329 the Modesto City Council adopted Planned Development Zone, P-D(602), to allow for a senior assisted and independent housing development for residents 55 years and older, comprised of two single-story residential buildings and common areas, and a storage building for the sole use of the residents of the housing development, together with the existing radio broadcasting tower with cellular equipment and cellular equipment lease area on an as-is basis in accordance to Article 4, Chapter 3 of Title 10 of the Modesto Municipal Code, on property located at 1192 Norwegian Avenue; and

WHEREAS, a verified application for an amendment to P-D(602) was filed by 1192 Norwegian Modesto LP on August 28, 2019 to allow for Medium High Density (R-3) Zone uses and amendment of the approved development plan to allow for a two-story 24-unit apartment complex with parking at three spaces fewer than required by the City's Zoning Code for multi-family residential uses; and

WHEREAS, a public hearing was held by the Planning Commission on October 21, 2019, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, Planned Development Zones are processed as zone boundary changes and required findings for zone boundary changes are provided in Section 10-9.803 of the Modesto Municipal Code; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2019-31, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2014042081) 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 proposed development is compatible with the adjacent residential uses.
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 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. The requested reduction in parking of three guest parking spaces from the required number of six guest spaces will not adversely affect surrounding uses because the proposed site plan provides adequate parking for the tenants of the apartment complex, and on-street parking is available adjacent to the project.
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.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the Council as follows: that Planned Development Zone P-D(602) be amended to permit all Medium High Density Residential (R-3) Zone uses, with amendment of the development plan to allow for a new two-story 24-unit apartment complex, and permit the development with parking at a level less than is required by the City's Zoning Code for multi-family residential uses.

IT IS FURTHER RECOMMENDED that a revised development plan for P-D(602) 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 "1192 Norwegian Modesto LP, 1192 Norwegian, Modesto CA", stamped approved by the City Council on [date to be determined].
2. Prior to the 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 or designee.
3. The improvement plans shall include all landscaping, parking and common areas, and any and all easements required for the establishment of new utilities and the preservation of existing utilities.
4. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and City Engineer or designee. Easements for utilities, irrigation and electrical lines to remain shall be reserved as required. A 10-foot PUE is required along the Norwegian Avenue frontage.
5. Prior to occupancy of any structure, fences and/or walls shall be constructed as follows, to the satisfaction to the Director of Community and Economic Development:
 - a. An eight-foot-high decorative masonry wall with cap treatment along the east, west and south property lines.
 - b. The decorative masonry wall shall be treated with an anti-graffiti coating along the east, west and south exterior facades.
6. 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.
7. 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 Director of Community and Economic Development. 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 west of the project site. The height of the lighting should not exceed 15 feet above grade.
8. 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.
9. All signs shall comply with the sign requirements of the R-3 Zone.

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. 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 or Building permit.
14. There is an existing water service connection to this property from the 8-inch water main in Norwegian Avenue. If additional connection or an upgrade to the existing connection is required, then water connection fees shall be paid and an encroachment permit obtained from the City prior to any work being done in the public right-of-way.
15. There is an existing sewer connection to this property from the 8-inch sewer main in Norwegian Avenue. If additional connection or an upgrade to the existing connection is required, then sewer connection fees shall be paid and an encroachment permit obtained from the City prior to any work being done in the public right-of-way.
16. The City does not have a positive storm drain in this area. This area is served by rock wells which are for street storm water run-off and do not have the capacity to serve this project's expected on-site run-off demands. The storm water shall be kept on site according to current City standards. Storm water calculations will need to be submitted to the City along with the improvement plans for review and approval.
17. 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.

18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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.
24. Proposed development designs shall comply with building codes adopted by the City of Modesto at time of building permit application, and be "wet" stamped by engineer.
25. Prior to issuance of a building permit, applicant shall specify if solar will be applicable, with reference to current requirements, 2016 Title 24, Building Energy Efficiency Standards.
26. Fire hydrant spacing and distribution for this project is 500-feet O.C. Improvement plans shall demonstrate the provision of onsite fire hydrants as required.

27. Buildings shall be equipped with automatic fire sprinkler systems installed in accordance with NFPA 13 or 13R. Electronic monitoring of automatic fire sprinkler may be required if a separate sprinkler water supply or a separate shutoff valve from the domestic supply is provided.
28. Improvement plans shall demonstrate the provision of required fire hydrants within 90-feet of the Fire Department Connection (FDC) to fire sprinklers.
29. Plans for any electronically controlled vehicle access gates shall be submitted to an approved by the Fire Marshall prior to installation.
30. Applicant shall submit Landscape and Irrigation (L&I) plans for review and approval by the City's Parks Planning and Development (PPD) Division. L&I plans shall meet the current State of California Model Water Efficient Landscape Ordinance (MWELO) requirements, Modesto Municipal Code (MMC) requirements and City of Modesto standards at time of submittal.
31. Applicant shall provide street trees along Norwegian Avenue. Street tree(s) shall be spaced thirty five (35') feet on center and located within seven feet (7') of the sidewalk or curb.
32. Applicant shall install parking lot shade trees per MMC requirements; one (1) shade tree for every eight (8) parking spaces, continuous and intermitted stall locations, within seven feet (7') of stalls.
33. Applicant shall install climbing vines on all walls, in a landscape planter, around the trash enclosure to discourage tagging.
34. Low Impact Development (LID) control and treatment measures shall be planted with vegetation 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 the landscape area in project information.
35. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Standards Code.
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, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
38. 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.

39. 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.
40. 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.
41. 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 mitigation measures from the City of Modesto General Plan Master EIR that are applicable to the project:

42. Effectively stabilize dust emissions using water, chemical stabilizer / suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles, which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)
43. Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)
44. When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)
45. Limit operations 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.) (Policy VII.H.2.rr)
46. Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)
47. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)
48. Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)

49. Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
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 opacity limit). (Policy VII.H.2.zz)
51. Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:
 - Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
 - Require impact tools to be equipped with shrouds or shields;
 - Require that the quietest equipment available be used; and,
 - Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)
52. Construction activities shall comply with the requirements of the City's Stormwater 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. (Policy VI.G.3)
53. Ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures. (Policy VI.G.5)
54. Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)
55. Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

SECTION II

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

1. All uses as permitted in the Medium High Density Residential (R-3) Zone.
2. Existing radio broadcasting tower with cellular equipment and cellular equipment lease area, on an as-is basis in accordance to Article 4, Chapter 3 of Title 10 of the Modesto Municipal Code.

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 Planned Development amendment, 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 Master EIR.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on October 21, 2019, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Pollard and carried by the following vote:

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

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

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