

PLANNING COMMISSION
RESOLUTION NO. 2020-05

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 9-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL (R-1) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(609) PROPERTY LOCATED AT 3313 COFFEE ROAD (EJCJ DEVELOPMENT, LLC)

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by EJCJ Development, LLC, on February 28, 2020, to rezone from Low Density Residential (R-1) Zone, to Planned Development Zone, P-D(609), to allow a development of a 25,168 square foot, 3-story building with mixed commercial, professional office and residential uses, property located at 3313 Coffee Road as described as follows:

Legal Description:

Real property in the City of Modesto, County of Stanislaus, State of California, described as follows:

ALL THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE QUARTER CORNER COMMON TO SECTIONS 9 AND 10, ABOVE TOWNSHIP AND RANGE; THENCE SOUTH 0° 50' 30" EAST ALONG THE SECTION LINE 979.00 FEET; THENCE NORTH 89° 24' WEST, 20.00 FEET TO A POINT ON THE WEST LINE OF A 40 FOOT COUNTY ROAD AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 89° 24' WEST, 278.00 FEET THE EAST LINE OF LAND CONVEYED TO LESLIE H. HIGH AND WIFE, BY DEED RECORDED JANUARY 8, 1948, AS INSTRUMENT NO. 382; THENCE SOUTH 0° 50' 30" EAST ALONG THE EAST LINE OF SAID HIGH LAND 158.00 FEET; THENCE SOUTH 89° 24' EAST, 278.00 FEET TO THE WEST LINE OF SAID 40 FOOT COUNTY ROAD; THENCE NORTH 0° 50' 30" WEST ALONG THE WEST LINE OF SAID COUNTY ROAD 158.00 FEET TO THE TRUE POINT OF BEGINNING.

APN: 013-082-064-000

WHEREAS, a public hearing was held by the Planning Commission on July 20, 2020, 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 2020-05, 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 rezone to Planned Development will provide for the development of permanent housing and space for commercial opportunities. These will be done in accordance to all applicable City Standards, Second Story zoning requirements and adopted Building Codes.

2. The requested change will result in an orderly planned use of land because the proposed development is located on Coffee Road, an arterial and will be compatible with the surrounding commercial and high-density 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 the site is within the Mixed-Use (MU) land use designation of the General Plan which allows for a mixture of commercial, office and 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 9-3-9 of the Zoning Map be amended to rezone from Low Density Residential (R-1) Zone to Planned Development Zone, P-D(609), 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 titled "New Mixed-Use Building, Livewor Place, 3313 Coffee Road, Modesto CA 95355", as 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. 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.
4. 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.
5. 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.
6. Prior to issuance of a building permit, plans for any new trash enclosures shall demonstrate the use of 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. Existing trees at the rear of the property must be replaced by shrubs.
8. The existing fence along westerly property line must be replaced by an 8-foot masonry wall.
9. Climbing vines shall be included in the landscape surrounding any new trash enclosures and CMU block walls to prevent tagging.
10. All signs shall comply with the sign requirements of the Neighborhood Commercial (C-1) Zone.
11. 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.
12. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Fire, Electrical, Mechanical, Plumbing, Energy codes adopted by the City of Modesto.
13. Improvement plans shall demonstrate the provision of onsite fire hydrants as required.

14. Developer shall provide bicycle parking as required by the California Green Building Standards Code.
15. 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.
16. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
17. 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.
18. Prior to Certificate of Occupancy, the applicant shall enroll and participate in the City's Crime-Free Multi-Family Housing Program as administered by the Modesto Police Department.
19. 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.
20. Applicant shall provide the minimum twenty-foot (20') front landscape setback on Coffee Road.
21. Applicant shall provide street trees along Coffee Road. Street tree(s) shall be spaced thirty-five (35') feet on center and located within seven feet (7') of the sidewalk or curb.
22. 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.
23. Applicant shall install the required three foot (3') high screening for vehicle headlights in parking areas facing Coffee Road.
24. 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.
25. 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 are applicable to the project:

26. 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:
 - a. Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
 - b. Require impact tools to be equipped with shrouds or shields;
 - c. Require that the quietest equipment available be used; and,
 - d. Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)
27. 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)
28. Construction activities shall comply with the mitigations of the Initial Study Checklist C&ED No. 2020-05

SECTION II

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

29. On the first floor uses consistent with those allowed in the Neighborhood Commercial (C-1) Zone except for restaurants with seating and medical office uses.
30. On the second and third floor residential uses as allowed in the 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 two years from the date

of City council adoption, and completion to be not later than four years from the date of City Council 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 July 20, 2020, by Vohra, who moved its adoption, which motion was seconded by Morad and carried by the following vote:

Ayes:	Escutia-Braaton, Morad, Pollard, Shanks, Vohra, Biring
Noes:	None
Absent:	Smith
Recused:	None

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

Original, signed copy on file in CEDD

Steve Mitchell, Secretary