

PLANNING COMMISSION  
RESOLUTION NO. 2020-17

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 32-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL (R-3) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(610) PROPERTY LOCATED AT 133 TUOLUMNE ROAD (SOPHEAR NAM)

WHEREAS, a verified application for an amendment to Section 32-3-9 of the Zoning Map was filed by Sophear Nam on September 29, 2020, to rezone from Medium-High Density Residential (R-3) Zone, to Planned Development Zone, P-D(610), to allow the remodel of an existing 11,1423 square foot, two-story building for mixed neighborhood commercial, professional office and residential uses, property located at 133 Tuolumne Blvd. as described as follows:

Legal Description:

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

LOTS 24, 25, 26 AND 27 IN BLOCK 305 OF THE CITY OF MODESTO, AS PER MAP FILED DECEMBER 21, 1942, IN VOLUME 15 OF MAPS PAGE 305, STANISLAUS COUNTY RECORDS AND ALL THAT PORTION OF SECTION 32, TOWNSHIP 3 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS: BEING A PORTION OF ABANDONED TUOLUMNE BOULEVARD BY RESOLUTION #1046 RECORDED MARCH 28, 1968, IN VOLUME 2213 OF OFFICIAL RECORDS AT PAGE 290, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERN CORNER OF LOT 24 OF BLOCK 305 OF THE CITY OF MODESTO, AS PER MAP FILED DECEMBER 21, 1942, IN VOLUME 15 OF MAPS, AT PAGE 305, STANISLAUS COUNTY RECORDS; THENCE ALONG THE SOUTHEASTERN MNE OF LOTS 24, 25, 26 AND 27 NORTH 47° 13' 22" EAST 100.00 FEET; THENCE ALONG SOUTHEASTERLY PROJECTION OF THE NORTHEASTERN LINE OF LOT 27, SOUTH 42° 46' 38" EAST, 66.61 FEET; THENCE SOUTH 22° 46' 45" WEST 38.47 FEET; THENCE ALONG A TANGENT CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 25.00 FEET A CENTRAL ANGLE OF 90° 00' AND AN ARC LENGTH OF 39.27 FEET; THENCE NORTH 67° 13' 15" WEST 77.02 FEET TO THE POINT OF BEGINNING.

Also including the easterly one-half of Calaveras Avenue and the northerly one-half of Tuolumne Boulevard, all immediately adjacent to the above described property.

APN: 102-015-031-000

WHEREAS, a public hearing was held by the Planning Commission on December 7, 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 2020-19, 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 and adopted Building Codes.
2. The requested change will result in an orderly planned use of land because the proposed development with multifamily residential and commercial uses is appropriately located on Tuolumne Boulevard, an arterial street and will be compatible with the surrounding commercial and 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 Residential (R) land use designation of the General Plan which allows for a medium-high density residential and existing small scale commercial and office 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.

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

SECTION I

That Section 32-3-9 of the Zoning Map be amended to rezone from Medium-High Density Residential (R-3) Zone to Planned Development Zone, P-D(610), 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 "133 Tuolumne Blvd. Modesto, CA, 95354, Cover Page", 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. 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 Division.
4. Applicant must work with Public Works Traffic Operations staff to minimize parking restrictions on both sides Calaveras Avenue from intersection with Tuolumne Boulevard to the residential development to the north.
5. 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.
6. 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.
7. 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.
8. 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.
9. Climbing vines shall be included in the landscape surrounding any new trash enclosures to prevent tagging.
10. 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.
11. 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.

12. 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.
13. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
14. 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.
15. 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.
16. 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.
17. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-2.2004, Parking Lot Design.
18. Any lighting fixtures must adequately shield the light to minimize glare or light spillage upon neighboring residents north of the project site.
19. Light fixtures shall be of a type or adequately shielded so as to prevent glare from normal viewing angles.
20. All signs shall comply with the sign requirements of the R-3 Zone facing Calaveras Avenue and the C-1 Zone facing Tuolumne Boulevard.
21. Prior to issuance of a sign permit, three copies of the sign plans for the project shall be submitted for separate review and approval prior to installation. Freestanding signage is expected to be designed as permitted by Modesto Municipal Code Section 10-6.107, Table 6.1-2
22. Exterior building walls shall be provided with a graffiti-resistant coating or paint, to a height of 12-feet.

Additionally, if the project is a Significant Redevelopment<sup>1</sup> project, defined as a project that creates, ads, or exchanges (one type of impervious surface for another type of impervious surface) at least 5,000 square feet of impervious area on an already developed site, the following comments will also apply:

23. 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.
24. 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 runoff on site, and incorporate pervious landscape features into the project design wherever possible.
25. 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.
26. 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 runoff on site, and incorporate pervious landscape features into the project design wherever possible.
27. 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.
28. 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.
29. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local SWPPP to Land Development Engineering, Stormwater for review. The WPCP or Local 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.

<sup>1</sup>Significant Redevelopment includes, but is not limited to, expansion of a building footprint or addition or replacement of a structure, structural development including an increase in gross floor area and/or exterior construction or remodeling, replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities related with structural or impervious surfaces.

#### PARKS PLANNING

30. For the current landscaping, 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.

31. All planter areas shall have a permanent border around the perimeter to prevent cars and pedestrians from damaging plant materials. If possible, minimum inside dimension of a planter shall be forty inches (40"). (MMC 12-1-03a). Planter dimensions shall be a minimum of four (4) feet by five (5) feet for each tree planted. (MMC 10-2-206a).
32. Within the clear vision triangle at corner lots, there shall be no plants, fences or structures that exceed three (3) feet in height (MMC 10-2-206-a).
33. Climbing vines shall be included in the landscape surrounding the trash enclosure and on the perimeter wall to discourage tagging.
34. Applicant shall install parking lot shade trees for new parking lot per MMC requirements; one (1) shade tree for every eight (8) parking spaces for all parking stall locations, within seven feet (7') of stalls.
35. Applicant shall install a separate landscape water meter for irrigation.

#### GENERAL CONDITIONS

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:

36. 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)
37. 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)
38. Construction and operational activities shall comply with applicable mitigations of the Initial Study Checklist C&ED No. 2020-19.

SECTION II

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

- 39. On the first floor uses consistent with those allowed in the Medium-High Density Residential (R-3) and Neighborhood Commercial (C-1) Zones except for restaurants with seating and medical office uses.
- 40. On the second-floor residential uses as allowed in the Medium-High Density Residential (R-3) Zone.
- 41. On the basement residential uses and storage 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 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 December 7, 2020, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Morad and carried by the following vote:

Ayes:	Morad, Pollard, Smith, Vohra, Birring
Noes:	Shanks
Absent:	None
Recused:	None

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

Original, signed copy on file in CEDD

Steve Mitchell, Secretary