

PLANNING COMMISSION  
RESOLUTION NO. 2021-14

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 22-3-9 OF THE ZONING MAP TO REZONE 0.825 ACRES FROM NEIGHBORHOOD COMMERCIAL (C-1) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(613) PROPERTY LOCATED AT THE NORTHEAST CORNER OF E. ORANGEBURG AVENUE AND COFFEE ROAD (KAUR)

WHEREAS, a verified application for an amendment to Section 22-3-9 of the Zoning Map was filed by Harwinder Kaur on April 14, 2021, to rezone from Neighborhood Commercial (C-1), to Planned Development Zone, P-D(613), to allow the development of a new gas station with new underground tanks and fueling system, three fueling islands and 12 pump stations under a 4,650-square-foot canopy, 2,900-square-foot convenience store, automatic carwash, four vacuum stations, and seven parking spaces as shown on the site plan dated May 3, 2021, property located at 1400 Coffee Road and described as follows:

All that portion of Lot 5 of the Broughton Colony, as per Map filed March 17, 1904 in Vol. 1 of Maps, Page 78, Stanislaus County Records, located in the Northwest quarter of Section 22, Township 3 South, Range 9 East, Mount Diablo Base and Meridian.

WHEREAS, a public hearing was held by the Planning Commission on July 12, 2021, 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 2021-13, 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 proposal is commercial and consistent with the types of uses in the area.
2. The requested change will result in an orderly planned use of land because it represents a modest change in the existing gas station use.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan because it fulfills the stated objectives of the general plan to:
  - (a) Facilitate an improved mix of land uses to reduce vehicle miles traveled by locating residential land uses close to employment, retail and services;
  - (b) Promote infill development;

- (c) Align Modesto's land use and transportation goals and policies;
  - (d) Facilitate complete, safe and walkable neighborhoods; and
  - (e) Promote equitable, affordable housing.
4. The proposed project is consistent with the Mixed Use (MU) general plan designation, which allows the development of a gas station and car wash. Development of the site would occur in accordance with commercial development standards enumerated in Title 10.
  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 22-3-9 of the Zoning Map be amended to rezone from C-1 to Planned Development Zone, P-D(613), 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 "ARCO AMPM 1400 Coffee Road" dated May 3, 2021.
2. Any variations from the approved site plan and elevations must be approved by the Director of Community & Economic Development.
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 Department.
4. Prior to occupancy of any structure, striping of parking stalls, aisles, driveways, and ground-mounted structures shall conform to the provisions of MMC Section 10-5.105, Parking Lot Design Standards.
5. An eight-foot-tall (8') masonry wall shall be installed along the eastern property line.
6. Hours of operation for the carwash shall be limited to 7:00 a.m. to 8:00 p.m.

7. 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 new development, as approved by the Community and Economic Development Director.
8. The design of light fixtures and their structural supports should be architecturally compatible with the main structures on the site. Light fixtures will be architecturally integrated into the design of a structure to the satisfaction of the Director of Community & Economic Development. All light fixtures shall be shielded to prevent spillover onto adjacent properties and the adjacent public rights of way.
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. All signs will be reviewed for conformance with the provisions of the MMC Section 10-6, Signs, for the C-1 zone.
10. 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.
11. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
12. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
13. 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 fees, and plan check fees.
14. 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.
15. There is an existing service connection to this parcel from the 8-inch main in Coffee Road. If a new connection or an upgrade to the existing one is requested, then applicable water connection fees shall be paid and an encroachment permit issued from the City prior to any work being done in the public right of way.
16. There is an existing sewer service connection to the subject parcel from the 6-inch sewer main in Orangeburg Avenue. If a new or an upgrade to any sewer service connection is requested, then an applicable sewer connection fees shall be paid and an encroachment permit issued from the City, prior to any work being done in the public right of way.
17. The area has a positive storm drain system which is designed to take runoff only from the public right-of-way. Therefore, any storm water generated from this development shall be managed and stored on-site according to the City's standards and current low impact development standards.

18. 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.**
19. Additionally, if the project is a Significant Redevelopment project, defined as a project that creates, adds, 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, and/or improves parking lots of greater than 5,000 square feet or 25 spaces, the following comments will also apply:
  - a. 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.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. 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.
20. Coordinate with and obtain the appropriate permits from the Modesto Irrigation District prior to final design and construction.
21. Coordinate with an obtain the appropriate permits from PG&E prior to final design and construction.
22. 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 current State of California water use ordinance requirements, Modesto Municipal Code (MMC) requirements, and City of Modesto standards.

23. Applicant shall provide a minimum ten-foot (10') front landscape setback on Coffee Road and E. Orangeburg Avenue.
24. Applicant shall provide a minimum five-foot (5') side landscape setback on the east property line.
25. Applicant shall protect in place, or replace, all existing street trees along Coffee Road and E. Orangeburg Avenue.
26. Applicant shall install street trees every thirty-five feet (35') on center along Coffee Road and E. Orangeburg Avenue, and within seven feet (7') of sidewalks.
27. 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.
28. Applicant shall install the required three-foot-high (3') screening for vehicle headlights in the parking areas facing Coffee Road and E. Orangeburg Avenue.
29. Applicant shall install climbing vines in a landscape planter on all walls around the trash enclosure to discourage tagging.
30. 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.
31. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Standards Code.
32. All bollards protecting fuel dispensers shall meet the requirements of Section 3-1.202 of the Modesto Municipal Code for Vehicle Impact Protection.
33. Prior to final building permit, approval from the Stanislaus County Department of Environmental Resources as the Certified Unified Program Agency (CUPA) is required.
34. Any public improvements that are missing damaged or not to current City standards on Coffee Road and E. Orangeburg Avenue frontages, shall be designed and constructed per City standards in accordance with City Code (Article 7-1.701). Such improvements may include, but not be limited to 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.
35. Property owner shall dedicate a 10-foot Public Utility Easement to the City behind the property line and on both frontages, in accordance with current City standards.

36. The two existing driveways nearest the intersection, one on Coffee Road and one on E. Orangeburg Avenue, shall be closed and the curb, gutter, and sidewalk reconstructed in accordance with current City of Modesto Standards.
37. 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 Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that are applicable to the project:

38. **AQ-85.** Review of new development shall be coordinated with SJVAPCD staff to ensure all projects subject to the SJVAPCD Rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through emission reductions from the construction and use of development projects through design features and onsite measures. Rule 9510 applies to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, which meets certain minimum thresholds. (Policy VII.H.2.u)
39. **AQ-100.** Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)
40. **AQ-101.** Require all access roads, driveways, and parking areas serving new commercial and industrial development to be constructed with materials that minimize particulate emissions in accordance with the requirements of SJVAPCD Regulation VIII and are appropriate to the scale and intensity of use. (Policy VII.H.2.kk)
41. **AQ-103.** 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)
42. **AQ-104.** Effectively stabilize dust emissions using water or chemical stabilizer / suppressant, all onsite unpaved roads and off-site unpaved access roads. (Policy VII.H.2.nn)

43. **AQ-105.** Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities. (Policy VII.H.2.oo)
44. **AQ-107.** 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. **AQ-108.** 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. **AQ-109.** Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)
47. **AQ-110.** 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)
48. **AQ-111.** Prevent carryout and trackout for any site with 150 or more vehicle trips per day. (Policy VII.H.2.uu)
49. **AQ-114.** Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)
50. **AQ-115.** Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
51. **AQ-116.** 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)
52. **AQ-117.** Limit the area subject to excavation, grading, and other construction activity at any one time. (Policy VII.H.2.aaa)
53. **Noise-4.** 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)

54. **Noise-11.** Limit trucking to specific routes, times, and speeds that avoid or minimize adverse effects on sensitive receptors. (Policy VII-G.3.i)
55. **AH-15.** Whenever possible, avoid disturbing or damaging archaeological resources. Preservation in place to maintain the relationship between the artifacts and the archaeological context is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:
- (1) Planning construction to avoid archaeological sites;
  - (2) Incorporating sites within parks, green space, or other open space;
  - (3) Covering the sites with a layer of chemically stable soil; and/or,
  - (4) Deeding the site into a permanent conservation easement.

When in-place mitigation is not feasible, data recovery through excavation may be necessary. A data recovery plan, which makes provisions for adequately recovering the scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the Central California Information Center in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code Section 7050.5; Guidelines Section 15126.4(b)).

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines Section 15126.4(b)). (Policy VII.F.2[l])

56. **AH-16.** Allow reasonable time for the qualified archaeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site. (Policy VII.F.2[m])
57. **AH-17.** If any find is determined to be significant by the qualified archaeologist, representatives of the construction contractor and the City, the qualified archaeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) will meet to determine the appropriate course of action. (Policy VII.F.2[n])
58. **AH-18.** All cultural materials recovered as part of a monitoring program are subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards. (Policy VII.F.2[o])
59. **SD-10.** 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)
60. **SD-12.** 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)



61. **SD-13.** 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)
62. **SD-15.** 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)
63. **FWQ-11.** 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. (Policy VI.G.3)
64. **FWQ-13.** 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)
65. **FWQ-14.** 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)
66. **FWQ-16.** 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)
67. **HM-1.** The County's General Plan Safety Element minimizes the effects of hazardous conditions that might cause a loss of life and property. The County Environmental Resources Department investigates all such sites to determine the degree of contamination and the level of cleanup needed. The County works closely with the DTSC and the RWQCB during all phases of the site investigation.
68. **HM-3:** Comply with all existing federal and state laws which regulate the generation, transportation, storage, and disposal of hazardous materials. (UAGP Policy VI.M.1)
69. **HM-4:** Require that businesses and industries using hazardous material provide mitigation measures commensurate with the hazards they bring to the community, in accordance with the most current adopted edition of the Uniform Fire Code. (UAGP Policy VI.M.2)

70. **HM-5.** In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan would be prepared by the project applicant.

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (Policy VI.M.3)

71. **HM-6:** For each specific project that would generate hazardous waste, require as a condition of building permit approval that the project sponsor prepare a hazardous material transportation program. Passage through residential streets should be minimized and parking of waste haulers on residential streets should be prohibited. The City Fire Department shall review and approve the applicant's hazardous materials transportation program or, working with the applicant, modify it to the satisfaction of both parties. (UAGP Policy VI.M.4)
72. **HM-7:** Prior to the issuance of all building permits, identify the site in relation to all Comprehensive Environmental Response, Compensation and Liability Information System sites and to known or suspected uncontrolled or abandoned hazardous waste sites. All projects within 2,000 feet of these facilities should conduct hazardous materials studies as necessary to identify the type and extent of contamination, if any, and the extent of risk to human health and public safety. If necessary, a remedial action program should be developed and implemented as in UAGP Policy VI.M.3. (UAGP Policy VI.M.5)

## SECTION II

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

Twelve fuel pump stations under a 4,650-square-foot canopy, 2,900-square-foot convenience store, automatic carwash, and four vacuum stations.

SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin within two years from the date of City Council approval and completion not later than two years from building permit issuance.

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 12, 2021, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Pollard and carried by the following vote:

Ayes:	Birring, Morad, Pollard, Silva, Shanks, Vohra
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