

PLANNING COMMISSION
RESOLUTION NO. 2021-16

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 27-3-9 OF THE ZONING MAP TO REZONE APPROXIMATELY 0.80 ACRES FROM MEDIUM DENSITY RESIDENTIAL (R-2) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(612) PROPERTY LOCATED ALONG THE SOUTH SIDE OF MILLER AVENUE BETWEEN ROSINA AVENUE AND N. CONEJO AVENUE (MINHAS)

WHEREAS, a verified application for an amendment to Section 27-3-9 of the Zoning Map was filed by Sandeep Minhas on December 9, 2020, to rezone from Medium Density Residential (R-2), to Planned Development Zone, P-D(612), to allow the development of 16 dwelling units, property located along the south side of Miller Avenue between Rosina Avenue and N. Conejo Avenue and described as follows:

All that real property in the City of Modesto, County of Stanislaus, State of California described as follows: Parcel 1, of Parcel Map No. 2012-06, filed on February 4, 2013, in Book 56 of Parcel Maps, at Page 87, Stanislaus County Records.

WHEREAS, the Planning Commission was originally scheduled to hear the proposed rezoning at the February 22, 2021, meeting but continued the hearing to a date uncertain to allow the applicant time to address neighborhood concerns; and

WHEREAS, a public hearing was held by the Planning Commission on July 19, 2021, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed rezone is exempt from CEQA, pursuant to Section 15332 of the CEQA guidelines, which exempts infill development projects meeting the conditions described in the section as indicated below.

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 residential 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 creates a transition from the single family development to the north to the commercial development to the south.
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 Residential (R) general plan designation, which allows the development of multi-family housing. It is also consistent with general plan policies addressing intensification of residential development along commercial corridors, which includes the Yosemite Boulevard corridor. The proposed project is also adjacent to a transit stop, which supports multi-family housing by providing an alternative to automobile use to a larger number of people than does single family housing. Development of the site would occur in accordance with all multi-family development standards enumerated in Title 10.
5. The project will have no significant effect on the environment and is categorically exempt from CEQA pursuant to Section 15332 and the following findings.
- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies, as well as with applicable zoning designations and regulations as set forth above.
 - (b) The proposed project lies within the limits of the City of Modesto on a site of less than five acres, that is surrounded by urban development.
 - (c) The property is fenced and covered in loose gravel and weeds. The site has been evaluated to determine whether it contains potential habitat for any special-status species. Based on the size of the site, its location, and its topography, combined with a physical examination of the site, there is no evidence suggesting the site has habitat potential.
 - (d) Project approval would have no significant impacts relating to:
 - (1) Traffic. The number of trips generated would be less than the General Plan Master EIR significance threshold of 100 more peak hour trips than expected under existing conditions.
 - (2) Noise. Noise resulting from construction activity and day-to-day activities from the future occupied multi-family development would not be expected to exceed noise from any similar construction site or residential development. No long-term significant impact would be expected to occur.

- (3) Air Quality. Air pollutant emissions resulting from construction activity and from the day-to-day activities from the future occupied multi-family development would not be expected to exceed emissions from a similar development. Furthermore, because the site is located near downtown and three transit lines are within a half mile of the site, including one adjacent to the site, some future residents will have easy access to transit.
 - (4) Water Quality. Development on the site will be required to connect to the municipal water supply and would generate no unusual pollutants that would create water quality problems.
- (e) Municipal services and utilities serving the site are adequate to serve the proposed project.

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

SECTION I

That Section 27-3-9 of the Zoning Map be amended to rezone from R-2 to Planned Development Zone, P-D(612), the above-described property in accordance with the following conditions:

Planning

1. Prior to the issuance of a building permit, all development shall conform to the Development Plan and building elevations titled "Miller Apartments" stamped approved by the City Council.
2. Prior to certificate of occupancy, the westerly wall shall be located on the property line, outside the MID easement and shall be a six-foot-high masonry wall and shall be no more than 42 inches in height 15 feet from the front property line, in accordance with City Standards. The wall shall be treated with a graffiti-resistant coating on the alley side.
3. Prior to certificate of occupancy, an eight-foot high masonry wall shall be installed along the south property line adjacent to the commercially-zoned property.
4. To secure the property, construct a single-board fence on the easterly property line extending from the dwellings south to the southern property line.
5. To secure the property, install gates at the parking lot access points.
6. 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.

Land Development Engineering

7. 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 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.
8. The property owner shall dedicate a 10-foot Public Utility Easement along the frontage of Miller Avenue, adjacent and behind the property line, per current City Standards.
9. There is an existing 4-inch water main in the alley along the west side of the property. A 4-inch water main is not adequate to support the water demands for a multi-family project. The nearest 8-inch or larger main is 450 feet to the east on N. Conejo Avenue. The City of Modesto anticipates start of construction to upgrade the water main in this area starting summer of 2021 and the construction may end summer 2022. When construction is complete, there will be adequate capacity to serve the proposed project from the new connection in the alley or Miller Avenue. When water main connection is available, 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. Consequently, no building permit for construction on the site or Certificate of Occupancy shall be issued until the water system improvements are complete or as determined by the City Engineer.
10. There is an existing 6-inch sewer main in the alley just west of the property. The existing main has capacity to serve the proposed development. 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.
11. The City does not have a positive storm drainage system in this part of Modesto. The project shall manage all storm water on-site according to current City standards. The Developer's Engineer shall submit a detailed storm water infrastructure plan and supporting calculations showing how storm water will be managed for this project. The project shall comply with the state mandated Storm Water Pollution Prevention Management and City Standards for Best Management Practices.
12. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local Stormwater Pollution Prevention Plan (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.

13. The project is considered a Priority project, as the proposed includes home subdivisions of 10 housing units or more (includes single-family homes, multi-family homes, condominiums, and apartments), and is subject to the following requirements:
 - 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.
14. 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.

Fire Prevention

15. A fire hydrant shall be installed in a planter finger approximately 150 feet south of the front property line.

Infrastructure Finance Program

16. The proposed project will be required to pay Capital Facilities Fees in effect at the time the building permit is issued.

Public Works, Transit

17. Applicant shall install a 12-foot-long concrete pad behind the sidewalk to create an 8-foot-wide section of concrete to allow the installation of a bench at the transit stop, to the satisfaction of the City Engineer.

Parks, Recreation, and Neighborhoods

18. 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.
19. Applicant shall provide the required front landscape setback on Miller Avenue.
20. Applicant shall plant trees for screening in a planter along the southerly property line.
21. Applicant shall provide street trees along Miller Avenue. 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 intermittent stall locations, within seven feet (7') of stalls.
23. Applicant shall install climbing vines on all walls, in a landscape planter, around the trash enclosure to discourage tagging.
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 runoff 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. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Standards Code.

Modesto Irrigation District

26. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by **the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.**

SECTION II

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

Sixteen two-bedroom, two-story, attached dwellings and an office.

SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin within one year of the availability of water 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 categorically exempt from CEQA pursuant to Section 15332.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on July 19, 2021, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Morad 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