

PLANNING COMMISSION  
RESOLUTION NO. 2022-16

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO PLANNED DEVELOPMENT ZONE P-D(247) TO ALLOW FOR COMMERCIAL DEVELOPMENT WITH COMMISSARY AND FOOD TRUCK PARKING AND MANUFACTURING/REPAIR SERVICES ON THE PROPERTY LOCATED 2301 CROWS LANDING ROAD (CAROLINA FERNANDEZ)

WHEREAS, by Ordinance No. 1892-C.S., approved on November 6, 1979, the City Council established P-D(247) as a prezone for development of "M-1 Zone uses which are agriculturally related," on a 39-acre property at the northwest corner of Crows Landing Road and Whitmore Avenue; and

WHEREAS, the property was annexed soon after as part of the Crows Landing-Whitmore annexation effective April 4, 1980; and

WHEREAS, P-D(247) Zone was established to require all de-velopment subsequent to Valley Tractor to be preceded by Planning Commission approval of the development plans; and

WHEREAS, by Ordinance No. 2670-C.S., adopted on June 6, 1989, the City Council rezoned the western 21 acres of P-D(247) to R-1 pursuant to the Shaker Estates single-family subdivision; and

WHEREAS, by Ordinance No.3224-C.S., adopted on May 22, 2001, the City Council approved an amendment to P-D(247) to expand the permitted uses to include all commercial and industrial uses as are allowed in the M-1 Zone; and

WHEREAS, by Resolution No. 2001-234, adopted on May 22, 2001, the City Council approved a development plan for P-D(247) to construct a mini storage facility; and

WHEREAS, by Resolution No. 2005-029, adopted on June 6, 2022, the Planning Commission that it hereby approved an amendment to P-D(247) to allow the development of a Commercial Center on the property located on the west side of Crows Landing Road north of the Whitmore/Crows Landing intersection; and

WHEREAS, by Resolution No. 2009-007, adopted on January 26, 2009, the Planning Commission approved an amendment to P-D(247) to allow a restaurant and a convenience market with gasoline pumps and car wash in the place of previously approved building pads; and

WHEREAS, an application for an amendment to P-D(247) was filed by Carolina Fernandez, to allow the development of a commercial development and Commissary with food truck parking and manufacturing/repair services, and

WHEREAS, a public hearing was held by the Planning Commission on June 6, 2022, via teleconference, 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 2022-17, which concluded that the proposed project is within the scope of the Modesto Urban Area General Plan Master EIR (SCH No. 2014042081). Pursuant to Section 21157.1 of CEQA, no new environmental review is required in accordance with the findings below.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines that the amendment to Planned Development Zone P-D(247), is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning is consistent with the Modesto Urban Area General Plan, as the site is designated Commercial, which permits retail commercial centers subject to compliance to City standards.
2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).
3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
5. Based on the Initial Study, the City of Modesto finds and determines:
  - a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
  - c. The subsequent project is within the scope of the project covered by the Master EIR, and,
  - d. All applicable policies, regulations, and/or mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project
6. The Initial Study, Environmental Assessment No. EA/C&ED 2022-17, provides the substantial evidence to support finding numbers 5a-5d, noted above.

BE IT FURTHER RECOMMENDED by the Planning Commission that it recommends the the City Council amend P-D (247) subject to the following conditions:

1. All development shall conform to the plot plan and building elevations titled "Crows Landing Center at 2301 Crows Landing Road" as amended in red, stamped approved by the Planning Commission on June 6, 2022.
2. Prior to issuance of a site improvement or building permit, any variation from the approved site plan on file with the City must be reviewed and approved by the Director of Community and 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. Any variation from the proposed uses of "commercial center, commissary, with food truck parking and manufacturing/repair services" at "Crows Landing Center at 2301 Crows Landing Road" shall be subject to approval by the Director of Community and Economic Development.
5. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
6. Prior to occupancy of any structure, walls shall be treated with a graffiti-proof coating to the satisfaction of the Director of Community and Economic Development or Designee. Construction drawings shall note the type of graffiti treatment used.
7. The design of light fixtures and their structural supports should be architecturally compatible with the main structures on the site. Light fixtures should be architecturally integrated into the design of a structure to the satisfaction of the Director of Community and Economic Development.
8. 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.
9. 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.
10. At the time of development, 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.

11. All signs shall comply with the sign requirements of the C-3 Zones. Prior to issuance of a sign permit, individual sign plans for the project shall be submitted to the Planning Division for separate review and approval prior to installation. All signs will be reviewed for conformance with the sign code.
12. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-5.105, Parking Lot Design Standards.
13. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
14. 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.
15. 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.
16. Applicant shall install climbing vines on all walls, in a landscape planter, around the all trash or storage enclosures to discourage tagging.
17. 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.
18. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Standards Code.
19. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.
20. Prior to issuance of a building permit the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.
21. Irrigation lines shall be removed, relocated, or protected as required by the Turlock Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.

22. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
23. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.
24. All aspects of this project shall comply with relevant City of Modesto Standards and Fire Codes as required by the Fire Marshall.
25. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of stormwater, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans. Provide stormwater treatment controls for the first one-half inch of stormwater runoff from impervious areas of addition. Use either biofiltration (grass swales, vegetative strips) or a propriety device. Design and locate trash enclosure to drain to landscape area.
26. The State Water Control Board and the City of Modesto require a Storm Water Pollution Prevention Plans (SWPPP) to be developed prior to any construction activity of one acre or greater. A copy of the Notice of Intent (NOI) and SWPPP shall be submitted for review prior to obtaining grading permit.
27. 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.
28. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
29. 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.
30. 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.
31. 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.

32. Project approval shall become null and void five (5) years following the effective date of approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion.

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:.

33. 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)
34. 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)
35. 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)
36. 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)
37. 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)
38. 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)
39. 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)

40. 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)
41. 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)
42. Prevent carryout and trackout for any site with 150 or more vehicle trips per day. (Policy VII.H.2.uu)
43. Limit traffic speeds on unpaved roads to 15 mph. (Policy VII.H.2.vv)
44. 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)
45. Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)
46. Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
47. 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)
48. Limit the area subject to excavation, grading, and other construction activity at any one time. (Policy VII.H.2.aaa)
49. 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)
50. For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Downtown, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, an assessment of whether any potential habitat for special-status species is present within proposed development areas shall be made. No further biological study is warranted unless habitat is present or if specific

information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources (Policy VII-E.2[a]).

51. 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)
52. 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)
53. 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)
54. 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)
55. 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.
56. 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.
57. 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.

58. 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)
  
59. Applicants for building permits should determine that a site containing or formerly containing residences or farm buildings / structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation should consist of, at minimum, a Phase I environmental site assessment and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment should be reported to the City and the County's Department of Environmental Resources. The appropriate remediation should occur prior to final occupancy of the approved development. (Policy VI.M.6)|
  
60. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
  - a. A hammer, or any other device or implement used to pound or strike an object.
  - b. An impact wrench, or other tool or equipment powered by compressed air.
  - c. A hand-powered saw.
  - d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
  - e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
  - f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader,

backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

- g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
  - h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
- 61. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.
  - 62. The developer shall implement pre- and post- construction best management practices (BMPs) to
  - 15. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

BE IT FURTHER RESOLVED by the Planning Commission that the Secretary of the Planning Commission is hereby directed to file with the Stanislaus County Clerk a Notice of Determination in regard to the environmental impact of the proposed Commercial Center project.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on June 6, 2022 by Commissioner Shanks, who moved its adoption, which motion was seconded by Commissioner and carried by the following vote:

Ayes: Birring, Pollard, Shanks, Vazquez, Morad  
Noes: None  
Absent: Silva, Vohra  
None None

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

  
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Steve Mitchell, Secretary