

PLANNING COMMISSION  
RESOLUTION NO. 2022-18

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 17-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL (R-1) ZONE AND COMMERCIAL-INDUSTRIAL (C-M) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(615) PROPERTY LOCATED ON THE WEST SIDE OF MCHENRY AVENUE BETWEEN WEST GRANGER AVENUE AND JUDITH LANE (CITY OF MODESTO)

WHEREAS, a verified application for an amendment to Section 17-3-9 of the Zoning Map was filed by the City of Modesto on May 10, 2022, to rezone from Low Density Residential (R-1) Zone and Commercial-Industrial (C-M) Zone to Planned Development Zone, P-D(615), to allow for mixed uses including multi-family residential uses, property located on the west side of McHenry Avenue between West Granger Avenue and Judith Lane, described as follows:

C-M to P-D(615)

All that certain real property situate in the City of Modesto, County of Stanislaus, State of California, lying within the Southeast Quarter of Section 17, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

All that portion of Lot 1 of the Fresno Tract being more particularly described as follows:

Commencing from the southeast corner of Lot 1 of the Fresno Tract, recorded on March 14, 1903 in Volume 1 of Maps at Page 76, Stanislaus County Records, said southeast corner also being the southeast corner of Section 17, Township 3 South, Range 9 East, North 00° 19' 01" West a distance of 30 feet; thence North 87° 54' 27" West a distance of 42 feet to the Point of Beginning of this description, thence the following four courses:

1. North 00° 19' 00" West, a distance of 500 feet
2. North 88° 31' 43" West a distance of 278 feet
3. South 00° 19' 02" East a distance of 500 feet,
4. thence South 88° 31' 43" East a distance of 278 feet to the Point of Beginning.

Also including the southerly half of Judith Lane, the westerly half of McHenry Avenue and the northerly half of Granger Avenue, all immediately adjacent to the above description.

4.1 acres, more or less.

Subject to all easements and/or rights of way of record.

APNs 119-005-003 and 119-005-004.

R-1 to P-D(615)

All that certain real property situate in the City of Modesto, County of Stanislaus, State of California, lying within the Southeast Quarter of Section 17, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

Lots 1 through 5 and the northerly 19.61 feet of Lot 6 in Block 6198 of the Hudelson Tract, recorded on December 9, 1946 in Volume 16 of Maps at Page 9, Stanislaus County Records.

Also including the southerly one-half of Judith Lane, the easterly one-half of Timothy Avenue and the 20-foot wide alley, all being immediately adjacent to the above description.

1.46 acres, more or less.

Subject to all easements and/or rights of way of record.

APN 119-005-017.

WHEREAS, a public hearing was held by the Planning Commission on June 20, 2022, 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 2022-16, 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 proposed change will not be detrimental to the public health, safety, or welfare because the current Commercial Industrial (C-M) Zone is a legacy zone that permits industrial uses that are not compatible with nearby residential and commercial uses, said zone originally enacted in July of 1955 to allow for the operation of a then-existing milk processing facility that has since been demolished. The proposed change to Planned Development Zone would facilitate mixed use development including commercial and residential uses that are compatible with existing surrounding development.
2. The requested change will result in an orderly planned use of land because the rezone will align existing retail development with the current General Plan land use designation of Commercial (C) uses, and allow for

mixed use development including commercial and multi-family 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 change would facilitate mixed-use development as outlined by the Major Transportation Corridors policies in Chapter III, Section 3 of the General Plan, which encourages mixed-use infill projects including commercial and high-quality multi-story residential development within the Planned Development rezone area.
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 17-3-9 of the Zoning Map be amended to rezone from Low Density Residential (R-1) Zone and Commercial-Industrial (C-M) Zone to Planned Development Zone, P-D(615), the above-described property in accordance with the following conditions:

1. Proposed new development within the Planned Development Zone P-D(615) shall be subject to consideration and approval by the Planning Commission in a public hearing prior to issuance of a building permit, in accordance to Modesto Municipal Code Title 10, Chapter 7.
2. Proposed new development shall include residential uses of at minimum 14.5 units per net acre.
3. Upon redevelopment, 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.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
5. 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.

## SECTION II

BE IT FURTHER RESOLVED that the following uses shall be authorized in said Planned Development Zone:

1. Mixed use new development that shall include:
  - a. Residential development at densities permitted in the Medium High Density Residential (R-3) Zone, and;
  - b. Retail commercial and office uses as permitted in the General Commercial (C-2) Zone, excluding the following vehicle-oriented uses: new and/or used vehicle rental or sales; gas stations, vehicle audio/stereo installation; vehicle repair and service; towing and service yard; recreational vehicle sales, service or storage.
2. Reuse of the existing retail commercial building for C-2 uses, excluding the above vehicle-oriented uses.

## SECTION III

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 the 20<sup>th</sup> day of June, 2022, by Shanks, who moved its adoption, which motion was seconded by Vasquez and carried by the following vote:

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

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

Original, signed copy on file in CEDD

Steve Mitchell, Secretary