

**CITY OF MODESTO
PLANNING COMMISSION AGENDA
MONDAY, SEPTEMBER 14, 2009 – 7:00 PM
BASEMENT CHAMBERS
1010 TENTH STREET – MODESTO, CA**

I. ROLL CALL

II. APPROVAL OF MINUTES

Minutes of the regular meeting of August 17, 2009.

III. CONFLICT OF INTEREST DECLARATION

Commissioners and staff may now declare conflicts of interest for the purpose of determining if a quorum will be present to act on each item in the order shown on the agenda.

IV. CONSENT AND JOINT PUBLIC HEARING ITEMS

None.

V. PUBLIC HEARINGS

Item A PDZ-08-004: Rezone C-2 to P-D, MU, 10th/H (Paul Draper)
Contact Info: David Wage, 577-5267, dwage@modestogov.com

Item B PDZ-09-002: Prezone to P-D, Secondary Treatment Plant, Jennings Road
(City of Modesto)
Contact Info: David Wage, 577-5267, dwage@modestogov.com

VI. OTHER BUSINESS

Item C Approve Meeting Schedule for 2010

Item D Feedback - CRAC (Patricia Gillum)

Item E Feedback – CH&CDC (Carolina Bernal)

Item F Feedback – BZA (Ted Brandvold)

VII. ORAL COMMUNICATIONS

These matters may be presented by interested persons in the audience, staff or Commissioners (see Notice at end of agenda cover). Under State law, Commissioners may respond to matters being presented under this item only as follows:

- (a) Briefly respond to statements made or questions raised;
- (b) Ask a question for clarification;
- (c) Provide a reference to staff or other resources for factual information;
- (d) Request staff to report back at a subsequent meeting;
- (e) Finally, a Commissioner, or the Commission itself, may take action to direct staff to place a matter of business on a future agenda.

VIII. MATTERS TOO LATE FOR THE AGENDA

These may be presented by members of the Planning Commission and staff, upon determination by a majority vote that an emergency exists, as defined by State law, or by a 2/3 vote that: 1) there is a need to take immediate action, and 2) that the need for action came to the City's attention after the agenda was posted.

IX. ADJOURNMENT

Copies of the agenda are on file at the Stanislaus Library Reference Room, 1500 I Street, Modesto, and in the office of the Planning Division, Third Floor, 1010 Tenth Street, Modesto, CA. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Commission Secretary at 209.577.5267. Assistive listening devices are available upon request to the Planning Commission Secretary. **Notification 48 hours prior to the meeting** will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Notice: Persons who wish to speak to the Planning Commission regarding any item on the printed agenda, including oral communications, are encouraged to sign in on a form provided at the meeting. The purpose of this list is to have your name and address should we need to contact you or provide additional information to you. Signing this form is optional to speakers.

Posted pursuant to Government Code Section 54954.2 on _____

by _____ on the bulletin board at Tenth Street Place.

**CITY OF MODESTO
PLANNING COMMISSION
STAFF REPORT**

TO: Chairperson Berglund and Members of the Planning Commission

PREPARED BY: David Wage, Associate Planner
Contact Info: 577-5267 dwage@modestogov.com

REVIEWED BY: Steve Mitchell, Principal Planner

APPROVED BY: Patrick Kelly, Planning Division Manager

DATE: August 27, 2009

SUBJECT: PDZ-08-004 – Application to rezone from General Commercial, (C-2) to Planned Development Zone, (P-D) to allow development of a seven-story mixed-use development that includes commercial space, professional office space, residential units and parking, property located on the southwest side of 10th Street between G and H Streets; submitted by Paul B. Draper.

RECOMMENDATION

That the Planning Commission adopt the attached resolution recommending to the City Council approval of an Amendment to Section 29-3-9 of the zoning map to rezone from General Commercial, C-2 Zone, to Planned Development Zone, (P-D) on the property located on the southwest side of 10th Street between G and H Streets.

BACKGROUND

The proposed project includes the redevelopment of seven parcels (APN 106-042-001 through 106-042-007) totaling 1.29 acres. The project site is bound by H Street to the northwest, 10th Street to the northeast, G Street to the southeast and an alley to the southwest. The site is zoned C-2 and is designated as part of the Redevelopment Planning District (RPD) by the General Plan.

The current uses on the property include a 110-stall surface parking lot that is owned by the City, and an old Greyhound Bus Depot which is used as storage and parking for the auto parts store located opposite corner of G and 10th Streets. Although not currently occupied, other buildings on the site include a vacant 2,500 square-foot office/warehouse and a 5,500 square-foot retail building, formerly occupied by the Black Sea Gallery Furniture Store. It will be necessary to demolish the existing buildings and remove the surface parking to accommodate the proposed development.

The project site is surrounded by existing urban uses. To the southeast and northeast of the project site along G and 10th Streets, the buildings are primarily one- and two-story buildings and include existing restaurants, attorney's offices, Napa Auto and Truck Parts, a chiropractor, a bank and a bail bonds business. The seven-story City Tower (Merrill Lynch) building is located to the northwest on the corner of H and 10th Streets. The building across the alley to the southwest is a renovated hardware store dating back to 1906, which is currently used as professional office space.

In February of 2008, City staff completed a conceptual review of the project to identify issues. On December 19, 2008, staff received an application to redevelop the subject property into a mixed-use development.

PROJECT DESCRIPTION

The proposed development consists of a new seven-story, mixed-use building, comprised of residential, retail, and office uses, as well as associated parking. The basement level will include 91 parking stalls as well as 16,500 square-feet of storage area. The first floor will include approximately 43,000 square feet of retail space and 17 parking stalls (two of the 19 stalls shown on the ground floor plan will need to be removed to allow for cars to turn around). The second floor will include approximately 35,000 square-feet of office space and 47 parking stalls. On the third through seventh levels, the project will provide up to 66 one-two- and three-bedroom residential units, including two-story town-homes on the sixth and seventh floors. An additional 188 parking stalls will be provided on the 3rd through 6th floors.

The proposed building will be 91 feet tall to the top of the parapet. The building façades facing G, H and 10th Streets will be mostly vertical from the bottom to top floor. However, each of these façades will vary with ground-level retail storefronts and outdoor dining area. A portion of the alley-facing (southwest) façade will be stepped back above the second floor approximately 40 feet to accommodate a residential courtyard on the roof.

The first floor commercial suites will be served by pedestrian entrances on 10th and H Streets, with an internal promenade connecting the two entries. While the second floor office and dwelling units on the floors above will be served by a separate lobby having its entrance on 10th Street. Building residents will have a second entry located on H Street. All vehicular access to parking will be taken from the alley.

The footprint of the proposed building fills the entire area of the property from property line to property line, so the project does not provide any on-site landscaping; but the development will provide new sidewalks and street trees in accordance with City Standards for the Downtown Improvement District.

REASONS FOR RECOMMENDATION

The proposed rezone to Planned Development conforms to the Redevelopment Master Plan, which calls for the introduction of new development in the downtown core, as well as the Commercial and Industrial Guidelines. Therefore, staff recommends that the Planning Commission rezone to Planned Development, subject to the findings and conditions in the attached resolution.

ISSUES

Sewer:

Upon reviewing the 10th and H project, City Engineering Staff noted limited capacity in the F Street Sewer Trunk, which the project was proposing to connect to. The F Street Trunk was initially identified in the City's Wastewater Master Plan as experiencing capacity constraints during peak wet weather flows due to direct storm water connections into the sewer system. Following the completion of the Master Plan, the Public Works Department initiated the removal of direct stormwater connections to the sewer system throughout the downtown area to address the wastewater capacity constraints. The removal of direct connections is an ongoing project with a ten year time horizon.

After their initial review of the proposed 10th and H project, Land Development Engineering Staff were informed of the H Street reconstruction project which includes the removal of a direct stormwater connection from the existing 8-inch sewer main in H Street. The H street main flows into the F Street Trunk and thus any increased capacity in the H street main would result in additional capacity in the F Street Trunk. Engineering Staff reviewed projected wastewater flow calculations for the 10th and H project and compared the figures to reduction in wastewater generated by the removal of the direct connection in H Street. The result was a net reduction in wastewater flow for the H Street Main and the F Street Trunk.

Engineering Staff have determined there is adequate capacity in the F Street Trunk to serve the 10th and H project, contingent on the removal of the direct storm water connection from the existing 8-inch sewer main in H Street. The H Street reconstruction improvements are anticipated to be completed during the summer of 2009. If project construction of the 10th and H project is delayed and other new development using the same trunk lines precedes the subject project, the applicant will be required to demonstrate through engineering studies that wastewater conveyance infrastructure serving the site is adequate. This issue is addressed by Mitigation Measure No. 9.

Historic Resource:

Although none of the buildings on the project site are on the City's list of designated landmark preservation sites, the building at 701 10th Street, a former Greyhound Bus Station, is a building that may be eligible for listing as a historic resource. As required by the City's General Plan for buildings older than 50 years old, a historic resource evaluation report was conducted for the former bus station by Carey and Co. Inc. Architecture. The report evaluated existing conditions, historic features, and the architectural significance of the property. According to the report, the building at 701 10th Street may have been an important transportation hub prior to and during World War II. However, it was not the first, the only or the most important Greyhound Station in Modesto, and does not meet the criteria for the National or California Register of Historical Resources. The report further states that even if it were to possess historical significance, the structure's lack of integrity would leave it ineligible for listing on either Register. For these reasons, the property is not considered a significant historic resource and its demolition is not considered a significant impact. For additional information, please see the Mitigated Negative Declaration and Historic Resource Evaluation Report for the project.

Redevelopment Master Plan and Commercial and Industrial Guidelines:

Upon receipt of the application, staff reviewed the project for conformance with the City's Redevelopment Master Plan and the Commercial and Industrial Guidelines. The project site is located in the "Downtown Core" area defined in the Master Plan. Development policies for the Downtown Core call for high residential densities and the greatest intensity of land uses in the City. Furthermore, the Master Plan specifically calls for vertical mixed-use development with ground floor commercial and residential or professional office uses above. Projects in the downtown core are also encouraged to facilitate the construction of adequate parking while maintaining ground floor retail frontage. The proposed project is consistent with the development policies described above, as well as other policies in the Redevelopment Master Plan.

The applicant has worked with staff to achieve a building that complies with the Commercial and Industrial Guidelines. Desirable architectural features include prominent entries and windows, awnings over a pedestrian scale storefront along G, H and 10th Streets, integrated surfaces to accommodate signage, and variation in materials and wall surfaces to provide articulation and avoid a monolithic appearance for the building. Staff encouraged the applicant to add decorative lighting along the southwest building elevation (alley-facing) and improve the

articulation along the wall. The applicant has agreed to address these design considerations at the time of building permit submittal and asked staff to condition the architectural enhancements. This issue is addressed by Condition of Approval No. 8.

The Commercial and Industrial Guidelines encourage the evaluation of proposed projects in the context of surrounding development. Concerns could be raised regarding the height and scale of the building relative to existing adjacent development, since the only building in the immediate vicinity that is greater than two stories high is the seven story City Tower building on the northwest corner of H and 10th Streets. However, approval of a 91-foot, seven-story building in the City of Modesto should be considered in the context of future expectations and goals of the Redevelopment Master Plan, more than in the context of compatibility with existing development. 10th Street has been recognized as the focus for high-density vertical development. The current Redevelopment Master Plan continues to reflect this goal for vertical mixed-use development and greater densities of up to 80 dwelling units per acre in the downtown core, and the proposed development will be providing a density of 51 dwelling-units-per-acre. The proposed development is consistent with the design principles advanced in the Commercial and Industrial Guidelines, as well as the overall land use and development goals of the Redevelopment Master Plan.

Parking:

The project site is located in the Downtown P-D Parking Zone Area which has reduced parking standards. New retail or office developments located in Downtown Parking Zone are required to provide one parking space for every five-hundred (500) square-feet of space. The requirement for the first 36 dwelling units is two spaces per unit and one-and-a-half spaces thereafter. In addition, each unit is required to provide one guest space. Based on 66 dwelling units and 49,000 square-feet of retail and office space, the project would require a total of 281 parking spaces. The project is proposing to provide a total of 344 spaces which is well in excess of the number required by code. The excess parking capacity could be used to accommodate tenants with a greater parking requirement such as restaurants, which require one space for every sixty (60) square-feet of dining area. Staff is satisfied the project provides sufficient parking.

10th and H Parking

| Proposed Use | Amount | Of What | Requirement | Spaces |
|------------------------|---------------|-----------------------|-----------------|------------|
| Ground Floor Retail | 30,000 | gross floor area | 1/500 sq. ft. | 60 |
| Second Floor Office | 19,000 | gross floor area | 1/500 sq. ft. | 38 |
| SUBTOTAL: | 13,120 | square feet | | 98 |
| Residential Units | 36 | dwelling units (du) | 2/du (first 36) | 72 |
| | 30 | | 1.5/du (>36) | 45 |
| | 66 | guest parking | 1/du | 66 |
| SUBTOTAL: | 66 | dwelling units | | 183 |
| TOTAL REQUIRED: | | | | 281 |
| TOTAL PROVIDED: | | | | 344 |

The applicant has not finalized their plans for which spaces will be reserved for residents and which will be available for the commercial and office uses. Although the development will provide more total parking spaces than is required by code, staff will need to review a parking plan that demonstrates how the internal parking will function. This issue is addressed by Condition of Approval No. 16 which requires the applicant to submit a parking plan prior to issuance of a building permit.

Drop Off:

Staff initially expressed concerns to the applicant regarding the design and location of the proposed drop-off on H Street. H Street is a one-way street with traffic traveling in a northeasterly direction. The design of the drop-off would require persons exiting the passenger side of the vehicle to exit street-side rather than onto the curb. Although this design is not ideal, there is currently on-street parking along H Street which provides space for the drop-off to adequately function. Passengers using the drop-off and exiting on the passenger side of the vehicle have room to exit and navigate to the sidewalk. Staff also expressed concerns about drop-off encroaching into the standard 10-foot-wide sidewalk and its impact on pedestrian movements.

Staff encouraged the applicant to explore alternative design options for the drop-off, including locating the drop-off to 10th Street. The applicant looked at alternatives but was unable to relocate the drop-off, citing design constraints. The applicant noted that the primary entry for residents is located on H Street and cannot be relocated. The drop-off and sidewalk on H Street were redesigned to meet the Americans with Disabilities Act required sidewalk width of 4-feet. Although not ideal, staff is satisfied that the current drop-off location will not create any significant problems.

Development Schedule:

Planned Developments are typically given a development schedule that requires the commencement of construction within two years of the date of final approval. Due to the size of the project and market conditions, the applicant has requested an extended development schedule that would require construction to commence on or before January 1, 2014 and be completed by January 1, 2016. Staff recommends support of the applicants request to extend the schedule.

Condominium Units:

The applicant's representative has indicated that it is the owners' intent to make the residential units available for sale in the future. The Municipal Code requires all condominiums to be located in P-D Zones. Since the applicant is proposing to rezone the project to P-D at this time, staff recommends the use list in the ordinance include for-sale residential condominium units as a permitted use. Including condominiums as a permitted use in the original ordinance will allow the applicant to avoid having to amend the P-D in the future if they wish to sell individual units. However, it should be noted that before individual units can be sold off, a subdivision map must be submitted and approved.

GENERAL PLAN CONSISTENCY

The site is within the Redevelopment Planned District (RPD) outlined in the Modesto Urban Area General Plan. The land use designation for this site within the RPD is Commercial-Residential-Public (CRP). The land use designation allows for mixed-use developments and the infill of the

development area. The proposed mixed use building that includes retail, office and residential uses is consistent with the General Plan designation.

ZONING CONFORMANCE

The existing zoning of the project site is C-2, General Commercial. The rezone to P-D, Planned Development, is required to accommodate the proposed mixed-use project, and the development of condominium dwelling units.

ENVIRONMENTAL ASSESSMENT

An Initial Study and Mitigated Negative Declaration (MND) EA/C&ED No. 2009-03, has been prepared by an environmental consultant, Adrienne Graham and Associates. The project site is located within the Baseline Developed Area; however, the MND was prepared as a stand-alone environmental document which did not tier off of the General Plan Master EIR (MEIR).

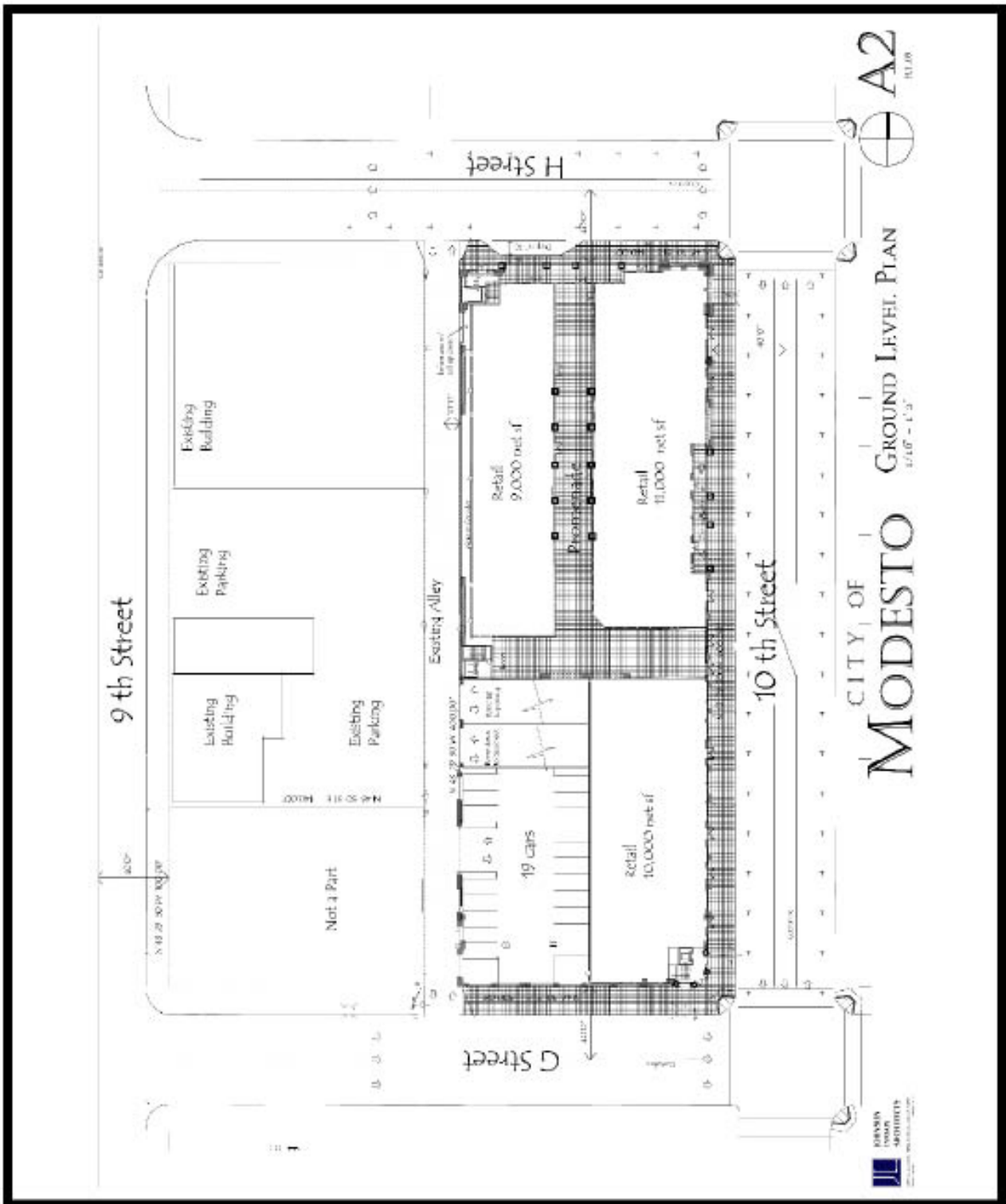
The Initial Study concludes that while the project may have a potentially significant impact on the environment, the incorporation of mitigation measures would reduce the impact to a less than significant level and a Mitigated Negative Declaration may be approved. The identified mitigation measures have been included as conditions of approval. Appropriate findings can be made to adopt the IS/MND and have been included in the Resolution (Attachment 1).

A Notice of Intent (NOI) for the IS/MND was published in the Modesto Bee on Friday, May 1, 2009, which commenced the 30-day public review and comment period. The NOI was also mailed to surrounding property owners within 300 feet of the project site to provide them with the opportunity to comment on the document. In addition, the IS/MND was sent to the State Clearinghouse (SCH) for distribution to a number of commenting agencies for a 30-day review and comment period.

The public review and comment period closed on Monday, June 1, 2009. Although CEQA does not require a lead agency (the City of Modesto) to respond to comments, it has been the City's practice to do so. The City has consolidated and drafted responses to all comments received (Attachment No. 3).

ATTACHMENTS (included with Commissioners' packets only)

1. Draft Planning Commission Resolution – PDZ-08-004 – September 14, 2009
2. Initial Study/Mitigated Negative Declaration EA/C&ED No. 2009-03
3. Response to Comments – EA/C&ED No. 2009-03
4. Financial Interest Disclosure Form
5. Large-Format Map(s)



Site Plan



ELEVATIONS

P-PDZ-08-004

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 29-3-9 OF THE ZONING MAP TO REZONE FROM GENERAL COMMERCIAL, C-2 ZONE, TO PLANNED DEVELOPMENT ZONE, P-D() FOR PROPERTY LOCATED ON SOUTHWEST SIDE OF 10TH STREET BETWEEN G AND H STREETS (PAUL B. DRAPER)

WHEREAS, a verified application for an amendment to Section 29-3-9 of the Zoning Map was filed by Paul B. Draper on December 19, 2008, to rezone from C-2, to Planned Development Zone, P-D(), to allow a seven-story mixed use development that includes commercial space, professional office space, residential units and parking, property located on the southwest side of 10th Street between G and H Streets described as follows:

All that portion of Block 54, City of Modesto, County of Stanislaus, State of California located in the Northeast one-quarter of Section 32, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, described as follows:

All of Lots 1 through 16 in Block 54, City of Modesto, according to the Map thereof, filed in Volume 15 of Maps, Stanislaus County Records;

Also including the Southeasterly one-half of H Street, the Southwesterly one-half of 10th Street, the Northwesterly one-half of G Street, and the Northeasterly one-half of the alley in Block 54; all being immediately adjacent to the above described property.

WHEREAS, Section 15070 of the CEQA Guidelines provides for a lead agency to prepare an Initial Study on any proposed project to analyze whether the project may cause any significant effect on the environment; and

WHEREAS, an Initial Study has been prepared, as provided for by CEQA; and

WHEREAS, the Initial Study concluded that while the project may have a potentially significant effect on the environment, the incorporation of mitigation measures would reduce the impact to a less than significant level, and consequently a Mitigated Negative Declaration (SCH No. 2009052001) was prepared; and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on May 1, 2009 and ended on June 1, 2009; and

WHEREAS, the City received public comments on the draft Initial Study/Mitigated Negative Declaration and no changes to the document were necessary as a result; and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration; and

WHEREAS, a public hearing was held by the Planning Commission on September 14, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it has reviewed and considered the Initial Study (SCH No. 2009052001), Environmental Assessment No. EA/C&ED 2009-03 and Mitigation Monitoring and Reporting Program prepared for the 10th and H Mixed Use Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified potentially significant environmental effects;
2. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the applicant, which will avoid or mitigate the effects to a point where clearly no significant effect will occur;
3. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2));
4. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency;
5. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is on file with the City Clerk;
6. The Initial Study, Environmental Assessment No. EA/C&ED 2009-03, provides the substantial evidence to support findings 1-5, noted above.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Planning Commission that it hereby finds and determines as follows:

7. That rezoning of the above-described property is required by public necessity, convenience, and general welfare for the following reasons:
8. The requested rezone is required by public convenience or necessity and will result in orderly planned use of resources for the following reasons:
 - a. The proposed rezone is consistent with the City's Redevelopment Master Plan, which encourages higher density, vertical mixed-use development in the downtown area; and
 - b. The recommended conditions of approval will insure the proposed project will be compatible with surrounding development.

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

SECTION I

That Section 29-3-9 of the Zoning Map be amended to rezone from General Commercial, C-2 to Planned Development Zone, P-D(), the above-described property in accordance with the following conditions:

GENERAL CONDITIONS

1. All development shall conform to the Planned Development drawings titled "Mixed-Use Building, 10th & H Streets" as amended in red, stamped approved by the City Council.
2. All development shall comply with the mitigation measures as identified in the attached Exhibit A: Mitigation Monitoring and Reporting Program for Environmental Assessment/ C&ED No. 2009-03.
3. Prior to sale of a condominium unit, a subdivision map shall be recorded.
4. Prior to the issuance of a building permit, annexation to the appropriate schools community facilities district will be required to the extent allowed by State law. If this requirement cannot be enforced due to the status of State law, then prior to issuance of a building permit, the developer shall provide written verification from the affected school districts that a determination has been made as to whether the developer will pay the school fees in effect or annex to the appropriate community facilities district.
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 attorney's 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.
6. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.
7. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris, and all exposed wall surfaces shall be kept free of graffiti.

PLANNING

8. Prior to the issuance of a building permit, final design of the southwest elevation of the building (alley-facing) as to architectural treatments which will provide decorative lighting along the alley and improved

articulation on that side of the building, shall be to the satisfaction of the Community & Economic Development (C&ED) Director.

9. All building drainage gutters, down spouts, vents, etc. located on exterior walls, shall be completely concealed from public view or shall be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.
10. Prior to issuance of a building permit, the applicant shall submit a cross-section drawing for approval, showing how all rooftop equipment is to be screened from view (including dimensions, materials, colors, etc.) to the satisfaction of the Director of Community and Economic Development or designee. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes should be set back from the roof edge and placed behind a parapet wall or in an enclosure, so they are not visible to motorists or pedestrians. Screening for equipment should be integrated into the building and roof design by the use of compatible materials, colors and forms. Wood lattice and fence-like coverings are not allowed for screening.
11. Prior to Certificate of Occupancy of any structure, all ground mounted utility structures such as transformers and HVAC equipment shall be located out of view from a public street to the satisfaction of the Director of Community and Economic Development or designee. Equipment shall be placed underground or adequately screened.
12. 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 or designee.
13. Outdoor storage shall only be permitted within those areas shown on the approved site plan. Areas designated for off-street parking, loading, circulation and maneuvering shall not be used for the outdoor storage of materials or equipment.
14. Prior to occupancy, exterior building walls shall be provided with a graffiti-resistant coating or paint, to a height of 12-feet along the alley-facing (southwest) building elevation.
15. Prior to issuance of a sign permit for any signage, the applicant shall submit a sign program for review and approval, to the satisfaction of the Director of Community and Economic Development or designee.
16. Prior to issuance of a building permit, the applicant shall submit a parking plan which demonstrates sufficient parking for the retail and offices uses is available to meet the parking requirements of the Modesto Municipal Code.

FIRE PREVENTION

17. Prior to occupancy, the project will need to meet the construction requirements of a high rise building as stated in the 2007 California Building Code Chapter 4 and the appropriate chapters of the 2007 California Fire Code related to alarm notification, fire department access and fire protection to the satisfaction of the Fire Chief of designee.
18. Prior to the issuance of a building permit, all on-site and off-site improvements shall be approved by the Fire Prevention Bureau as they relate to Fire Department access, fire flow requirements, and the location and type of fire appliances, including hydrants and other connections.

PARKS

19. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhoods Department Director or designee. The landscaping and irrigation system shall be installed and maintained in accordance with the approved plan.

LAND DEVELOPMENT ENGINEERING

20. Prior to the issuance of a building permit, improvement plans for any 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.
21. Prior to the issuance of a building permit, the development shall include improvements to the surrounding streetscape, including but not limited to sidewalks, street trees, and lighting, in accordance with the Downtown Improvement District and City Standards to the satisfaction of the City Engineer or designee.
22. All public improvements shall be designed and constructed according to City of Modesto Standard Specifications or as required for the public health and safety by the City Engineer or designee.
23. 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.
24. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the respective utility company, Modesto Irrigation District, and/or City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be dedicated as required.
25. Prior to certificate of occupancy, all damaged or deteriorated curb, gutter, sidewalk, and other existing public improvements at the project site shall be repaired or replaced as required for the public health and safety as determined by the City Engineer or designee in accordance with City of Modesto Standard Specifications.

26. Prior to the issuance of a building permit, developer should provide for separate plumbing to the sanitary sewer to accommodate any grease generating uses (such as restaurants), medical procedure waste, or similar establishments identified as having wastewater pretreatment requirements to provide suitable monitoring and capture of potential wastewater discharges that impact the system.
27. Prior to issuance of a building permit, the applicant shall demonstrate sufficient water pressure to meet fire and building codes for a 7-story building, to the satisfaction of the City Engineer or designee. A booster pump may be required to meet these standards.
28. Prior to issuance of a grading or building permit, the developer shall provide storm drainage calculations, plans and/or reports as required per City of Modesto Standard Specifications. The onsite and offsite storm drain system shall be designed and improved per City of Modesto Standard Specifications and approved by City Engineer or designee.

STORMWATER QUALITY

29. Development Standards listed in the City's current NPDES Permit shall be applied to project at the time of Improvement Plan submittal.

SOLID WASTE

30. Prior to issuance of a building permit, the developer shall provide a comprehensive solid waste plan that demonstrates how solid waste will be disposal will function for tenants, the projected amount of garbage generated, storage capacity, size and location of trash bins, recycling bins and enclosures. The plan shall be reviewed and approved by Parks, Recreation and Neighborhoods Director or designee.

SECTION II

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

31. General Commercial (C-2) Uses; and
32. Multi-family Dwellings, Including Residential Condominiums

SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin on or before January 1, 2014, and completion to be not later than January 1, 2016.

SECTION IV

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that they adopt a resolution approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Rezone to Planned Development and Mixed Use Project.

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

Ayes:

Noes:

Absent:

Recused:

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

Patrick Kelly, Secretary

EXHIBIT " A "

MITIGATION MONITORING AND REPORTING PROGRAM

MODESTO 10TH AND H STREETS PROJECT
MITIGATION MONITORING AND REPORTING PROGRAM
MAY 2009

Introduction

In accordance with CEQA Guidelines § 15097, to ensure implementation of mitigation measures identified in the Initial Study as included in the project and those imposed as conditions of approval by the lead agency, a program for monitoring or reporting (Mitigation Monitoring and Reporting Program (MMRP)) must be adopted. Until mitigation measures are completed, the lead agency remains responsible for ensuring that implementation occurs in accordance with the program.

The attached MMRP lists the project mitigation measures that will be implemented for the Modesto 10th and H Streets Project. It identifies who is responsible for implementation of the mitigation measure and the necessary steps, or actions, to complete it. The MMRP describes how the measure will be monitored, who is responsible for the monitoring, and presents a schedule of when the mitigation is to be implemented.

| Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program | | | | |
|---|----------------------------------|---|--|---|
| Mitigation Measure | Mitigation Responsibility | Monitoring Actions | Monitoring / Reporting Responsibility | Schedule |
| 3. Air Quality | | | | |
| 1 Wood stoves shall be prohibited within the Proposed Project. | Developer | Demonstrate that the project design does not include wood stoves. | Building Safety | Prior to issuance of a building permit |
| 5. Cultural Resources | | | | |
| 2(a) In the event that any prehistoric or historic subsurface archeological features or deposits, including locally darkened soil (“midden”), that could conceal cultural deposits, animal bone, obsidian, and/or mortar, are discovered during construction-related earth-moving activities, all work within 50 feet of the resource shall be halted and the City shall consult with a qualified archeologist or paleontologist to assess the significance of the find. If the find is determined to be significant by the qualified archaeologist/paleontologist, then representatives of the City and the qualified archaeologist/ paleontologist shall meet to determine the appropriate course of action, consistent with General Plan Policy VII-F.2(g). | Developer | Include specifications of Mitigation Measure 2a in contractor’s contract. | Land Development Engineering Division | Prior to issuance of a grading permit and/or excavation |
| | Developer | Confirm that qualified archeologist has been hired to monitor all grading and excavation. | Planning Division | Upon discovery of archaeological resources |
| | Construction Contractor | Implement recommendations of archaeologist | Planning Division | Upon receipt of recommendations |
| 2(b) Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, fossils or other cultural materials from the project area. | Developer | Include specifications of Mitigation Measure 2b in contractor’s contract. | Land Development Engineering Division | Prior to issuance of a grading permit |
| 2(c) If paleontological resources are discovered, a qualified paleontologist shall evaluate the resource and | Developer | Include specifications of Mitigation Measure 2c in | Land Development | Prior to issuance of a grading permit |

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| prepare a mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the City to be necessary and feasible shall be implemented before construction activities can resume. | Developer | contractor's contract. Confirm that qualified paleontologist has been hired to evaluate the resource and prepare mitigation plan. | Engineering Division Planning Division | and/or excavation Upon discovery of paleontological resources |
| | Construction Contractor | Implement recommendations of archaeologist | Planning Division | Upon receipt of recommendations |
| 3(a) During all phases of project construction, and prior to any ground disturbance, the project applicant or developer shall notify contractors that they are required to watch for human remains. | Developer | Include specifications of Mitigation Measure 3a in Contractor's contract | Land Development Engineering Division | Prior to issuance of a grading permit |
| 3(b) In the event of the discovery of a burial, human bone, or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the contractor shall immediately notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, and Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor shall also retain a Native American monitor from the appropriate Native American Tribe(s) as determined by the Native American Heritage Commission. No further disturbance of the site may be made except as | Construction Contractor | If human bone is found, contact the County Coroner, as indicated in Mitigation Measure 3(b). | Land Development Engineering Division | During grading and excavation upon discovery of human remains |

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| authorized by the County Coroner. The Coroner shall make the determination within two working days from the time the person responsible for the excavation, or authorized representative, notifies the Coroner of the discovery or recognition of the human remains. | | | | |
| 7. Hazards and Hazardous Materials | | | | |
| 4(a) Prior to approval of Improvement Plans, a Phase 1 Environmental Site Assessment shall be prepared for parcels 104-042-005 (713 10 th Street) and 104-042-007 (701 10 th Street, the former bus station). The recommendations of the Phase 1 ESA will be fully implemented prior to construction of the project. | Developer | Contract for the preparation of a Phase 1 Environmental Site Assessment, as outlined in Mitigation Measure 4(a). | Land Development Engineering Division | Prior to approval of Improvement Plans |
| | Developer | Implement recommendations of the Phase 1 Assessment. | Land Development Engineering Division | Prior to issuance of a grading permit |
| 4(b) Prior to approval of Improvement Plans, a geotechnical investigation for the entire project site will be undertaken to determine whether any underground storage tanks are present. If such tanks are present, they shall be removed, and any associated soil contamination shall be remediated prior to onset of project grading or excavation. | Developer | Contract with a qualified professional for the preparation of a geotechnical investigation, as outlined in Mitigation Measure 4(b). | Land Development Engineering Division | Prior to approval of Improvement Plans |
| | Developer | Implement recommendations of the Geotechnical Report. | Land Development Engineering Division | Prior to issuance of a grading permit |

| Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program | | | | |
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| 4(c) Where any activity would be performed at a contaminated site or where hazardous materials are suspected, a project-specific Health and Safety Plan shall be prepared prior to any site work. The Health and Safety Plan shall be prepared by the contractor(s) and filed with the City and regulatory agencies, as required. The Plan shall include required worker health and safety provisions for all workers potentially exposed to contaminated materials at the site, identification of hazardous materials present, monitoring to be performed during site activities, required training for workers, identification of appropriate personal protective equipment and emergency response procedures, and designation of personnel responsible for Plan implementation. | Developer | If Phase 1 ESA indicates that hazardous materials could be present, contract with a qualified professional to prepare a Health and Safety Plan, as outlined in Mitigation Measure 4(c). | Building Safety and Land Development Engineering Division | Prior to issuance of a grading or building permit, whichever occurs first |
| | Construction Contractor | Follow the recommendations of the Health and Safety Plan. | Building Safety | During project construction |
| 4(d) The contractor(s) shall prepare a Waste Disposal and Hazardous Materials Transportation Plan prior to construction activities where hazardous wastes or materials requiring off-site disposal would be generated. The Plan shall include a description of analytical methods for characterizing wastes and handling methods required to minimize the potential for exposure and shall establish procedures for the safe storage of contaminated materials and stockpiling of soils, as required. The required disposal method for contaminated materials (e.g., lead-based paint, asbestos, other hazardous materials requiring disposal) and the approved disposal site shall be indicated in the Plan. The Plan shall also identify specific routes to be used for transport of hazardous materials and waste to and | Developer | Contract with a qualified professional to prepare a Waste Disposal and Hazardous Materials Transportation Plan, as outlined in Mitigation Measure 4(d). | Land Development Engineering Division | Prior to issuance of grading permit |
| | Construction Contractor | Follow the recommendations of the Waste Disposal and Hazardous Material Transportation Plan | Building Safety | During project construction |

| Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program | | | | |
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| from the project site, or specific routes to be avoided during transport. Routes shall be selected to minimize proximity to sensitive receptors to the greatest practical degree. Elements of the Plan regarding transportation of hazardous materials and wastes shall be reviewed and approved by the City Fire Department. | | | | |
| 4(e) In the event that previously unidentified contamination is encountered (e.g., identified by odor or visual staining) during soil disturbing activities, or any underground storage tanks, abandoned drums, or other hazardous materials or wastes are encountered during construction, the contractor(s) shall immediately notify the City, and the City shall then notify the County. The contractor(s) shall have prepared a Contingency Plan for Sampling and Analysis of potentially hazardous substances and coordination with appropriate regulatory agencies. The Plan shall be submitted to the City prior to soil disturbing activities. Any site investigations or remedial activities shall be performed in accordance with applicable laws under the direction of a regulatory agency and the City, in accordance with Mitigation Measures 4(c) and 4(d). | Developer | Include provisions of Mitigation Measure 4(e) in contractor's contract. | Land Development Engineering Division and Building Safety | Prior to issuance of a building or grading permit, whichever occurs first |
| | Construction Contractor | Notify the City if and when contamination is found. | Land Development Engineering Division and Building Safety | If and when contamination is discovered. |
| | Community and Economic Development Department | Notify the County if and when contamination is found. | Land Development Engineering Division and Building Safety | If and when contamination is discovered. |
| | Construction Contractor | Follow the recommendations of the Contingency Plan for Sampling and Analysis. | Land Development Engineering Division and | After contamination is discovered and before construction |

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| | | | Building Safety | recommences. |
| 11. Noise | | | | |
| 5(a) Erect a solid 8-foot-tall plywood construction/noise barrier along the exposed project boundaries. The barrier shall not contain any significant gaps at its base or face, except for site access and surveying openings. | Construction Contractor | Erect a construction/noise barrier, per Mitigation Measure 5(a) | Land Development Engineering and Building Safety | Prior to onset of grading or construction |
| 5(b) Comply with the City of Modesto Noise Ordinance and General Plan Policy Vii-G.3(a). Demolition and pile-driving activities shall be coordinated with adjacent land uses in order to minimize potential disturbance of planned activities. | Developer | Include the provisions of Measure 5(b) in contractor contract | Building Safety | Prior to issuance of a demolition or building permit, whichever occurs first |
| | Construction Contractor | Inspect the site during construction to ensure that provisions are being followed | Building Safety | Periodically during construction |
| 5(c) If pile driving occurs, pile holes shall be pre-drilled to the maximum feasible depth. This would reduce the number of blows required to seat the pile, and would concentrate the pile driving activity closer to the ground where noise can be attenuated more effectively by the construction/noise barrier. | Developer | Include the provisions of Measure 5(c) in contractor contract | Building Safety | Prior to issuance of a building permit |
| | Construction Contractor | Inspect the site during construction to ensure that provisions are being followed | Building Safety | During pile driving |
| 5(d) Locate fixed construction equipment such as compressors and generators as far as possible from | Developer | Include the provisions of Measure 5(d) in | Building Safety | Prior to issuance of a building permit |

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| sensitive receptors. Shroud or shield all impact tools, and muffle or shield all intake and exhaust ports on power construction equipment. | Construction Contractor | contractor contract Inspect the site during construction to ensure that provisions are being followed | Building Safety | During grading and construction |
| 5(e) Designate a disturbance coordinator and conspicuously post this person's number around the project site and in adjacent public spaces. The disturbance coordinator would receive all public complaints about construction noise disturbances and would be responsible for determining the cause of the complaint, and implement any feasible measures to be taken to alleviate the problem. | Developer | Include the provisions of Measure 5(e) in contractor contract | Building Safety | Prior to issuance of a building permit |
| 6(a) Construct a solid roof line screen barrier 5 feet in height to shield the third floor courtyard area from traffic and railroad noise. The barrier shall be continuous along the roof line without significant gaps or openings that would compromise the acoustical performance of the barrier. The barrier shall be constructed of a solid material that blocks airflow to the full 5 foot height. Appropriate materials include concrete, masonry, various steel and glass panels (depending on stiffness and thickness). The acoustical screen shall be reviewed by an acoustical consultant prior to construction. | Developer | Demonstrate that project design includes the screen barrier as described in Measure 6(a) | Planning Division | Prior to issuance of a building permit |
| 6(b) All residential units facing 9 th Street or H Street shall be constructed with materials that will achieve an interior noise level of 45 dB L _{dn} or less. | Developer | Demonstrate that project design will achieve an interior noise level of 45 | Building Safety | Prior to issuance of a building permit |

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| | | dB L _{dn} | | |
| 7(a) Implement Mitigation Measures 5(a) and 5(c) above. | See 5(a) and 5(c) above | | | |
| 7(b) If pile driving occurs, provide protective coverings or temporary shoring of on-site or adjacent historic features as necessary, in consultation with the Preservation Director. | Developer | Include the provisions of Measure 7(b) in contractor contract | Building Safety | Prior to issuance of a building permit, if pile driving to occur |
| | Construction Contractor | Consult with City Preservation Director | City Preservation Director | Prior to onset of pile driving activities |
| 7(c) If pile driving occurs, the pre-existing condition of all buildings within a 50-foot radius would be recorded in order to evaluate damage from construction activities. Fixtures and finishes within a 50-foot radius of construction activities susceptible to damage shall be documented (photographically and in writing) prior to construction. All damage shall be repaired back to its pre-existing condition. | Developer | Include the provisions of Mitigation Measure 7(c) in contractor's contract and pay for recordation of buildings. | Building Safety | Prior to issuance of a building permit, if pile driving to occur |
| | Construction Contractor | Repair any damage to adjacent buildings, as necessary. | City Preservation Director | Following any pile driving activities |
| 7(d) If pile driving occurs and fire sprinkler failures are reported in surrounding buildings to the disturbance coordinator, the contractor shall provide monitoring during construction and repairs to sprinkler systems shall be provided. | Developer | Include the provisions of Measure 7(d) in contractor contract | Building Safety | Prior to issuance of a building permit, if pile driving to occur |
| | Construction Contractor | Monitor and repair sprinkler systems if any damage occurs | Building Safety | Following any report of sprinkler failures |
| 7(e) Should damage occur despite the above mitigation measures, construction operations shall be halted and | Developer | Include the provisions of Mitigation Measure 7(e) | Building Safety | Prior to issuance of a building |

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| the problem activity shall be identified. A qualified engineer shall establish vibration limits based on soil conditions and the types of buildings in the immediate area. The contractor shall monitor the buildings throughout the remaining construction period and follow all recommendations of the qualified engineer to repair any damage that has occurred to the pre-existing state, and to avoid any further structural damage. | Construction Contractor | in contractor's contract. Monitor buildings and implement engineer recommendations, per Mitigation Measure 7(e) | Building Safety | permit, if pile driving to occur Upon evidence of damage due to pile driving |
| 15. Transportation/Traffic | | | | |
| 8 The City shall monitor future traffic volumes and compare against current forecast. If background traffic volumes increase as forecast, parking shall be prohibited on each street in advance of the G Street and H Street alleys in order to provide deceleration opportunities and to increase sight distance for emerging traffic. | Community and Economic Development Department Community and Economic Development Department | Monitor traffic volumes at the G Street and H Street alleys. Restripe and sign G Street and H Street in advance of the alleys to provide adequate deceleration and sight distance for emerging traffic | City Traffic Engineer City Traffic Engineer | Annually after project completion As warranted based on traffic volumes |
| 16. Utilities and Service Systems | | | | |
| 9 If project construction is delayed so that other new development using the same trunk lines precedes the Proposed Project, the applicant shall demonstrate through engineering studies that wastewater conveyance infrastructure serving the site is adequate. | Developer | Demonstrate that wastewater conveyance study is adequate | Land Development Engineering Division | If and when project is delayed, and other projects using the same infrastructure have been constructed |

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| | Developer | Delay project occupancy until sewer improvements needed to provide capacity are implemented. Developer may choose to advance fund and/or construct needed improvements | Land Development Engineering Division | Prior to issuance of a building permit |

**CITY OF MODESTO
PLANNING COMMISSION
STAFF REPORT**

TO: Chairperson Berglund and Members of the Planning Commission

PREPARED BY: David Wage, Associate Planner
Contact Info: 577-5267, dwage@modestogov.com

REVIEWED BY: Steve Mitchell, Principal Planner

APPROVED BY: Patrick Kelly, Planning Manager

DATE: August 27, 2009

SUBJECT: PDZ-09-002 – Application to prezone the City's Secondary Wastewater Treatment Facility to Planned Development Zone, P-P-D, 15 parcels totaling 4,792.7 acres, property located approximately seven miles southwest of the Modesto City limits on south side of Keyes Road, west of Vivian Road; submitted by the City of Modesto.

RECOMMENDATION

That the Planning Commission adopt the attached resolution:

- A resolution for a revised recommendation to the City Council for an amendment to sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map to prezone to Planned Development Zone, P-D, property located approximately seven miles southwest of the Modesto City limits on the south side of Keyes Road, West of Vivian Road.

BACKGROUND

On July 20, 2009 the Planning Commission recommended that the Council submit an application to prezone the Secondary Wastewater Treatment Plant (Secondary Plant) to R-1 in preparation to annexing the Secondary Plant. Prior to scheduling the item for a City Council hearing date, City Staff met with County Staff to discuss any issues regarding Sphere of Influence Boundaries, development standards and zoning requirements, as required by Government Code Section 56425(a). County Staff expressed reservations about possible concerns or misconceptions regarding the proposed prezoning, and requested the City consider an alternative to R-1 Zoning. City Staff acknowledged the County's concerns and agreed to bring forward a revised recommendation to prezone the property to Planned Development Zone, P-D.

PROJECT DESCRIPTION

The City of Modesto is proposing to amend the sphere of influence, prezone and annex its Secondary Wastewater Treatment Facility, which is located on 15 City owned parcels totaling 4,792.7 acres. There is an existing firing range used by City and County law enforcement employees located on the subject property. The item before the Commission for consideration is a revised recommendation to prezone the subject property to Planned Development Zone, P-D, rather than Single-Family Residential, R-1 as previously recommended. The use list for the proposed P-D Zone will include: structures or grounds operated by a government agency,

including but not limited to: wastewater treatment facilities, law enforcement firing range, and other ancillary uses approved by the City Council.

REASONS FOR RECOMMENDATION

City Staff supports the proposed rezoning to P-D because it will define the uses permitted on the subject property and avoid confusion or concerns associated with other possible rezoning designations. Furthermore, the rezoning to P-D will help facilitate the annexation, which is consistent with General Plan Policy III-C1(e), which calls for the expansion and annexation of the Secondary Plant.

ISSUES

None.

GENERAL PLAN CONSISTENCY

The property is located outside of the City's General Plan Area. The City is not proposing to amend its General Plan Area Map to include the Secondary Plant. The project is consistent with General Plan Policy III.C.1.e, which calls for the annexation and expansion of the Secondary Plant as appropriate and as needs dictate.

ZONING CONFORMANCE

The property will be pre-zoned Planned Development Zone, P-P-D, which will allow for structures or grounds operated by a government agency, including but not limited to: wastewater treatment facilities, firing range, and other ancillary uses approved by the City Council.

ENVIRONMENTAL ASSESSMENT

Staff has prepared an Initial Study Environmental Checklist, No. EA/C&ED 2009-19, (Attachment No. 5), which concludes that the proposed annexation is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076), and that pursuant to Section 21157.1(b) of CEQA, no new environmental review is required.

ATTACHMENTS (included with Commissioners' packets only)

1. Draft Planning Commission Resolution (PDZ) – September 14, 2009
2. Initial Study, EA/C&ED 2009-19



AREA MAP OF PROPOSED PREZONE OF THE CITY'S SECONDARY TREATMENT PLANT TO PLANNED DEVELOPMENT, P-D PDZ-09-002 7007 JENNINGS ROAD

PLANNING COMMISSION
RESOLUTION NO. 2009-XX

A RESOLUTION FOR A REVISED RECOMMENDATION TO THE CITY COUNCIL FOR AN AMENDMENT TO SECTIONS 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 OF THE ZONING MAP TO PREZONE TO PLANNED DEVELOPMENT ZONE, P-D, PROPERTY LOCATED APPROXIMATELY SEVEN MILES SOUTHWEST OF THE MODESTO CITY LIMITS ON SOUTH SIDE OF KEYES ROAD, WEST OF VIVIAN ROAD (CITY OF MODESTO)

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the City's Secondary Wastewater Facility was constructed, located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a verified application for an amendment to Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map was filed by the City of Modesto, on June 25, 2007, to prezone to Low-Density Residential (P-R-1) Zone, to allow for the annexation of the existing Secondary Plant, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 20, 2009, in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, on July 20, 2009 the Planning Commission adopted resolution 2009-20 recommending that the City Council prezone the Secondary Plant Wastewater Treatment Plant to Low Density Residential, R-1, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, on August 7, 2009, City Staff met with Stanislaus County Staff pursuant to Government Code Section 56425 to discuss Sphere of Influence boundaries, development standards and zoning requirements; and

WHEREAS, County Staff expressed concerns with the proposed pre zoning of the subject property to Low Density Residential, R-1; and

WHEREAS, City Staff agreed to bring a revised recommendation back to the Planning Commission to prezone the subject property to Planned Development Zone, P-D rather than Low Density Residential, R-1; and

WHEREAS, a verified application for an amendment to Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map was re-filed by the City of Modesto, on August 8, 2009, to prezone to Planned Development Zone, P-D, to allow for the annexation of the existing Secondary Plant, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road as described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 14, 2009, in the Chambers, Tenth Street Place, 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 2009-19, which concluded that the project is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required.

NOW, THEREFORE, the Planning Commission of the City of Modesto hereby revises its recommendation and recommends that the City Council find as follows:

1. The requested rezoning of the Property as requested is required by public convenience or necessity for the following reasons:
 - a. The proposed rezoning will allow for the continued operation of the Secondary Plant.
 - b. Result in orderly planning and use of land resources because the continued operation and future expansion of the Secondary Plant will be consistent with the Wastewater Master Plan Update.
2. The proposed rezone is consistent with the Modesto Urban Area General Plan, because:
 - a. General Plan Policy III.C.1.e, calls for the annexation and expansion of the Secondary Treatment Plant as appropriate and as needs dictate; and
3. All applicable policies, regulations, and mitigation measures identified in the Wastewater Master Plan Update Master EIR (MEIR) have been applied to the project or otherwise made Conditions of Approval of the project; and
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; and
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 beyond that which was identified in the MEIR.
 - b. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No EA/C&ED 2009-19, provides the substantial evidence to support findings 4 and 5, noted above.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the application of the City of Modesto to amend Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map to prezone the property described above to Planned Development Zone, (P-D) Zone, be approved.

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

Structures or grounds operated by a government agency, including but not limited to: wastewater treatment and storage facilities, reclaimed water and bio-solids disposal area, agricultural operations, law enforcement firing range, compost facility and other ancillary uses approved by the City Council.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on September 14, 2009 by _____, who moved its adoption, which motion was seconded by _____ and carried by the following vote:

Ayes:

Noes:

Absent:

Recused:

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

Patrick Kelly, Secretary

Attachments: Exhibit "A" Legal Description

Exhibit "A"

LEGAL DESCRIPTION

JENNINGS ROAD ANNEXATION

LEGAL DESCRIPTION

All that certain property situate, lying, and being portions of Sections 32, 33, and 34, Township 4 South, Range 8 East, Mount Diablo Base and Meridian, and portions of Sections 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 22, and 23, Township 5 South, Range 8 East, Mount Diablo Base and Meridian, lying in the County of Stanislaus, State of California, and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly bank of the San Joaquin River with the north line of Section 5, Township 5 South, Range 8 East, said point being 1940.61 feet west of the Northeast corner of said Section 5, measured along the north line of said Section 5, thence the following twenty three (23) courses:

- 1) South 89°59'19" East 120.00 feet, along the north line of said Section 5, to the southwesterly corner of that certain tract of land commonly identified as Assessor's Parcel 17-61-14; thence
- 2) North 31°17'15" East 2196.48 feet, along the northwesterly line of the aforementioned tract of land, to the northerly corner thereof; thence
- 3) South 57°40'55" East 563.69 feet, along the northeasterly line of the aforementioned tract of land, also being along the southwesterly line of Parcel 1, as shown on that certain Parcel Map filed in Book 9 of Parcel Maps, at Page 93, Stanislaus County Records, to the southerly corner of said Parcel 1, also being a point on the northerly line of the Westport Drain; thence
- 4) North 47°46'05" East 175.78 feet, along the northerly line of said Westport Drain, to an angle point in said northerly line; thence
- 5) South 81°49'46" East 965.70 feet, continuing along said northerly line; thence
- 6) North 77°00'15" East 1979.94 feet, continuing along said northerly line; thence
- 7) South 52°48'45" East 1635.36 feet, continuing along said northerly line; thence
- 8) North 84°06'15" East 1220.77 feet, continuing along said northerly line; thence
- 9) South 46°52'45" East 1616.86 feet, continuing along said northerly line; thence
- 10) South 89°33'45" East 2608.68 feet, continuing along said northerly line; thence

- 11) South 80°03'55" East 300.00 feet, continuing along said northerly line; thence
- 12) South 89°33'45" East 1212.42 feet, continuing along said northerly line, to the intersection of said northerly line with the east right-of-way line of Jennings Road, said east right-of-way line being 20.00 feet east, measured at a right angle, of the east line of said Section 2, Township 5 South, Range 8 East; thence
- 13) South 00°26'32" West 2686.49 feet, along the east right-of-way line of said Jennings Road, being parallel with and 20.00 feet east, measured at a right angle, of the east line of said Section 2, to a point on the south right-of-way line of Zeering Road; thence
- 14) South 90°00'00" West 20.00 feet, along the south right-of-way line of said Zeering Road, to a point on the east line of said Section 2; thence
- 15) South 00°26'32" West 2593.63 feet, along the east line of said Section 2, to a point on the north right-of-way line of Monte Vista Avenue, said north right-of-way line being 30.00 feet north, measured at a right angle, of the north line of said Section 11, Township 5 South, Range 8 East; thence
- 16) South 89°29'02" East 2646.38 feet, along the north right-of-way line of said Monte Vista Avenue, being parallel with and 30.00 feet north, measured at a right angle, of the north line of said Section 11, to a point on the northerly extension of the north-south $\frac{1}{4}$ section line of said Section 11; thence
- 17) South 00°27'47" West 5317.77 feet, along said north-south $\frac{1}{4}$ section line, and northerly extension thereof, to the south $\frac{1}{4}$ corner of said Section 11; thence
- 18) South 89°31'26" East 2646.67 feet, along the south line of said Section 11, to the southeast corner of said Section 11; thence
- 19) South 00°07'48" West 2641.61 feet, along the east line of said Section 14, Township 5 South, Range 8 East, to the east $\frac{1}{4}$ corner of said Section 14; thence
- 20) South 00°08'00" West 2642.52 feet, along the east line of said Section 14, to the southeast corner of said Section 14; thence
- 21) South 00°26'51" West 5309.76 feet, along the east line of said Section 23, Township 5 South, Range 8 East, to the southeast corner of said Section 23; thence
- 22) North 89°44'09" West 1759.80 feet, along the south line of said Section 23, to the intersection of the south line of said Section 23 with the northeasterly bank of the aforementioned San Joaquin River; thence

23) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 40280 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM all that certain real property annexed to the City of Modesto by the Jennings Addition, filed December 30, 1969, in Volume 2308 of Official Records, at Page 377, Stanislaus County Records.

Containing a total of 4689.6 acres, more or less.

Subject to covenants, conditions, restrictions, reservations, rights, rights-of-way, and easements of record.

**2010 SCHEDULE OF MEETINGS
PLANNING COMMISSION AND BOARD OF ZONING ADJUSTMENT**

NOTE: The typical processing timeline from application to meeting date is a minimum of eleven weeks. Application 'filing day' is Monday of each week. Staff will advise you of your scheduled meeting date once it has been determined that the application is 'complete,' following initial review by City departments.

| | <u>DATE</u> | <u>TIME</u> |
|-----------------|---------------------|----------------|
| P/C | Monday, Jan. 4 | 7:00 pm |
| P/C | Monday, Jan. 25* | 7:00 pm |
| BZA | Thursday, Jan. 28 | 10:00 am |
| P/C | Monday, Feb. 1 | 7:00 pm |
| P/C | Monday, Feb. 22* | 7:00 pm |
| BZA | Thursday, Feb. 25 | 10:00 am |
| P/C | Monday, Mar. 1 | 7:00 pm |
| P/C | Monday, Mar. 15 | 7:00 pm |
| BZA | Thursday, Mar. 25 | 10:00 am |
| P/C | Monday, Apr. 5 | 7:00 pm |
| P/C | Monday, Apr. 19 | 7:00 pm |
| BZA | Thursday, Apr. 22 | 10:00 am |
| Alumni Luncheon | TBA | 12 – 1:30 p.m. |
| P/C | Monday, May 3 | 7:00 pm |
| P/C | Monday, May 17 | 7:00 pm |
| BZA | Thursday, May 27 | 10:00 am |
| P/C | Monday, Jun. 7 | 7:00 pm |
| P/C | Monday, Jun. 21 | 7:00 pm |
| BZA | Thursday, Jun. 24 | 10:00 am |
| P/C | Monday, Jul. 12* | 7:00 pm |
| P/C | Monday, Jul. 19 | 7:00 pm |
| BZA | Thursday, Jul. 22 | 10:00 am |
| P/C | Monday, Aug. 2 | 7:00 pm |
| P/C | Monday, Aug. 16 | 7:00 pm |
| BZA | Thursday, Aug. 26 | 10:00 am |
| P/C | Monday, Sept. 13* | 7:00 pm |
| P/C | Monday, Sept. 20 | 7:00 pm |
| BZA | Thursday, Sept. 23 | 10:00 am |
| P/C | Monday, Oct. 4 | 7:00 pm |
| P/C | Monday, Oct. 18 | 7:00 pm |
| BZA | Thursday, Oct. 28 | 10:00 am |
| P/C | Monday, Nov. 1 | 7:00 pm |
| P/C | Monday, Nov. 15 | 7:00 pm |
| BZA | Thursday, Nov. 18** | 10:00 am |
| P/C | Monday, Dec. 6 | 7:00 pm |
| P/C | Monday, Dec. 20 | 7:00 pm |
| BZA | Thursday, Dec. 23 | 10:00 am |

* = Adjourned Regular Meeting (not the 1st or 3rd Monday)

** = Adjourned Regular Meeting (not the 4th Thursday)