

PLANNING COMMISSION
RESOLUTION NO. 2009-09

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 23-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-HIGH DENSITY RESIDENTIAL (R-3) TO PROFESSIONAL OFFICE ZONE (P-O) PROPERTY LOCATED AT THE SOUTHEAST CORNER OF OAKDALE ROAD AND PEPPERMINT DRIVE (TRINITY VENTURES, LLC)

WHEREAS, a verified application for an amendment to Section 23-3-9 of the Zoning Map was filed by Trinity Ventures, LLC on October 13, 2008 to reclassify from Medium-High Density Residential Zone(R-3) to Professional Office Zone (P-O), property located at the southeast corner of Oakdale Road and Peppermint Drive in the City of Modesto, described as follows:

R-3 to P-O

All that certain real property situate in a portion of the Southwest quarter of Section 23, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

All of Lot 1, of block 1423, as shown on the map filed August 26, 1970 of Morningside Estates, in Volume 22 of Maps at Page 61, Stanislaus County Records;

also including the Southerly one-half of Peppermint Drive and the Easterly one-half of Oakdale Road, all being immediately adjacent to the above property.

APN: 067-027-021

WHEREAS, a public hearing was held by the Planning Commission on January 26, 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 2009-01, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2007072023) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required; and

WHEREAS, the rezoning will result in no physical changes to the project site.

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

1. The requested rezoning is required by public convenience or necessity and will result in an orderly planned use of resources for the following reasons:
 - a. The proposed rezoning will provide for a good buffer for the adjacent residences from Oakdale Road.

- b. The proposed Professional Office Zone amendment will be compatible with the surrounding land uses.
- 2. The proposed rezoning is consistent with the Modesto Urban Area General Plan because the Professional Office Zone is consistent with the General Plan Mixed Use Designation of the site.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the application of Trinity Ventures, LLC to amend Section 23-3-9 of the Zoning Map to reclassify the property described above from Medium High Density Residential (R-3) Zone, to Professional Office Zone (P-O), be approved.

BE IT FURTHER RESOLVED by the Planning Commission that 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.

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 project.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on January 26, 2009, by John Sanders, who moved its adoption, which motion was seconded by Carolina Bernal and carried by the following vote:

Ayes:	Berglund, Bernal, Brandvold, Gillum, Sanders, and Tyler
Noes:	None
Absent:	None

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

Original, signed copy on file in CEDD
Patrick Kelly, Secretary