

PLANNING COMMISSION
RESOLUTION NO. 2009-27

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(590) 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(590), 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 the Planning Commission continued the item to October 19, 2009; and

WHEREAS, a public hearing was held by the Planning Commission on October 19, 2009 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(590), 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 October 19, 2009, by John Sanders, who moved its adoption, which motion was seconded by Patricia Gillum, and carried by the following vote:

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

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

Original, signed copy on file in CEDD
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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
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				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
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				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
			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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
		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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
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

Modesto 10 and H Streets Project Mitigation Monitoring and Reporting Program				
Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
	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