

PLANNING COMMISSION  
RESOLUTION NO. 2009-30

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 7-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL (R-1) TO MEDIUM DENSITY RESIDENTIAL ZONE (R-2) PROPERTY LOCATED ON THE WEST SIDE OF CARVER ROAD SOUTH OF STANDIFORD AVENUE (TLB INVESTMENTS)

WHEREAS, a verified application for an amendment to Section 7-3-9 of the Zoning Map was filed by Robert Braden Consulting on behalf of TLB Investments on September 23, 2009 to reclassify from Low Density Residential Zone (R-1) to Medium Density Residential Zone (R-2), property located on the west side of Carver Road south of Standiford Avenue in the City of Modesto, described as follows:

R-1 to R-2

Real property in the City of Modesto, County of Stanislaus, State of California, described as follows:

That portion of the South half of the North 15.04 chains of the East 13.52 chains of Lot 1 of the KNAPP TRACT in the Northeast quarter of the Southwest quarter of Section 7, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, particularly described as follows:

Beginning at a point on the east line of said Lot 1, said point being on the center line of Carver Road and bearing South 0 Degrees 41' East 593.8 feet from the Northeast corner of said Lot 1; running thence North 89 Degrees 17' West 250 feet along the North boundary of the land conveyed to V.S. Price and Lula O. Price, his wife, and V.S. Price Jr., on the 3<sup>rd</sup> day of December 1946, which Deed is recorded in the office of the County recorder of Stanislaus County, California, as Instrument No. 33926; thence North 0 Degrees 41' West 97 feet 6 inches, more or less, to the North line of the said South half of the North 15.04 chains of the East 13.52 chains of Lot 1 of the said KNAPP TRACT, thence South 89 Degrees 17' East 250 feet to the East line of said Lot 1, thence South 0 Degrees 41' East 97 feet 6 inches, more or less, to the point of beginning.

APN: 054-051-001

WHEREAS, a public hearing was held by the Planning Commission on December 7, 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 2009-28, 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.

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 Medium Density Residential Zone amendment will be compatible with the surrounding land uses, because the property is surrounded by R-2 and commercial zoning.
  - b. The proposed rezoning is consistent with the Modesto Urban Area General Plan because the Medium Density Residential Zone is consistent with the General Plan Residential Designation of the site.
2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).
3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
4. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
5. Based on the Initial Study, the City of Modesto finds and determines:
  - a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
6. The Initial Study, Environmental Assessment No. EA/C&ED 2009-28, provides the substantial evidence to support finding numbers 2-5 noted above.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the application of TLB Investments to amend Section 7-3-9 of the Zoning Map to reclassify the property described above from Low Density Residential (R-1) Zone, to Medium Density Residential Zone (R-2), 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.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on December 7, 2009, by Ted Brandvold, who moved its adoption, which motion was seconded by John Sanders, and carried by the following vote:

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

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

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