

PLANNING COMMISSION
RESOLUTION NO. 2015-22

A RESOLUTION APPROVING AN AMENDMENT TO THE DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(554), PROPERTY LOCATED ON THE EAST SIDE OF CROWS LANDING ROAD SOUTH OF WINMOORE AVENUE (LOS AMIGOS TIRE PROS.)

WHEREAS, Planned Development Zone, P-D(554), was approved by the City Council by Ordinance No. 3267-C.S., which became effective on October 3, 2002, to allow a "Los Amigos Tire and Wheel" sales and service shop and a retail shell building on two parcels, on property located on the east side of Crows Landing Road south of Winmoore Avenue; and

WHEREAS, City Council Resolution No. 2002-421, adopted by the City Council on April 6, 2004, approved the development plan and schedule for Planned Development Zone, P-D(554), and contained the conditions of approval thereof for the development of said uses on the P-D(554) property; and

WHEREAS, a verified application for an amendment to P-D(554) was filed by Magallon Construction Co., Inc. on behalf of Los Amigos Tire Pros. on August 3, 2015, to allow for the construction of a 13,742 square foot combined restaurant and banquet hall facility with additional parking; and

WHEREAS, Section 10-7.108(b) of the Modesto Municipal Code authorizes the Planning Commission to approve revisions to the development plan of a Planned Development Zone; and

WHEREAS, on October 5, 2015, the Planning Commission considered the applicant's request for approval of a revised development plan.

WHEREAS, a public hearing was held by the Planning Commission on October 5, 2015, in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2015-17, 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 proposed reduction in parking for the banquet hall and restaurant will meet the needs of the proposed use, because the proposed uses will have different hours of operation, the adjacent industrial uses have different hours of operation, there is on-street parking on the adjacent Winmoore Avenue, and there is City bus service on Crows Landing Road.
2. The proposed amendment to the development plan is consistent with the Modesto Urban Area General Plan because the Planned Development

zoning, P-D(554) is consistent with the General Plan "C, Commercial" land use designation of the site.

3. An Initial Study, EA/C&ED 2015-17, was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the General Plan Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
4. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code that was not identified in the Master EIR.
4. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code that was not identified in the Master EIR.
5. No new or additional mitigation measures or alternatives are required.
6. The subsequent project is within the scope of the project covered by the Master EIR.
7. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Planning Commission that it hereby approves the amendment to the development plan for Planned Development Zone, P-D(554) for Los Amigos Tire Pros., to allow the construction of a 13,742 square foot combined restaurant and banquet hall facility with a reduction in parking to 111 spaces on property located on the east side of Crows Landing Road south of Winmoore Avenue, subject to the following conditions:

PLANNING

1. All development shall conform to the development plan and building elevations titled "Los Amigos Tire Pros. Proposed Restaurant and Social Hall, 1700 Crows Landing Rd, Modesto, CA 95358", stamped approved by the Planning Commission on October 5, 2015.
2. All conditions of City Council Resolution No. 2002-421, not in conflict with this action shall remain in full force and effect.
3. Hours of operation for the banquet hall facility shall be restricted to Friday's and weekends only between the hours of 4:00 p.m. to 12:30 a.m.
4. Prior to issuance of an encroachment permit, improvement plans for 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.

5. Prior to issuance of an encroachment permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Director of Community and Economic Development.
6. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.
7. Prior to issuance of any City permit, the developer shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.
8. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding District's facilities at the request of others will be borne by the requesting party.
9. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Title 10, Chapter 5, Parking Requirements.
10. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements (1 tree per 8 stalls, 50% coverage within 10 years).
11. Prior to the signoff for landscape conformance, a landscaping and irrigation plan for any new landscaping shall be approved by the Parks, Recreation and Neighborhood Director or designee. Proposed landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
12. Prior to issuance of an encroachment 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.
13. Prior to issuance of any City permit, all refuse and recyclable material bin enclosures should be screened with landscaping on all sides, with the exception of the gate area. All sides of the enclosure, with the exception of the gate area, should be surrounded by a minimum 18" wide planter area for the purpose of providing landscape material to the satisfaction of the Community and Economic Development Director.
14. Prior to occupancy of any structure, the developer shall submit a lighting plan that includes the location and design of proposed lighting fixtures for review and approval by the Director of Community and Economic Development.

15. The design of light fixtures and their structural supports should be architecturally compatible with the main structures on the site. Light fixtures should be architecturally integrated into the design of a structure to the satisfaction of the Director of Community and Economic Development.
16. All signs shall comply with the sign requirements of the C-3 Zone.
17. The use of individual "channel" lettered signs are encouraged; while "canister" type signs are discouraged. All signs will be reviewed for conformance with the sign code and the Commercial and Industrial Guidelines.
18. Prior to issuance of any City permit, the applicant shall submit a cross-section drawing, 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. 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.
19. 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. Equipment shall be placed underground or adequately screened through the use of landscaping or masonry walls.
20. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development.
21. Prior to map recordation, the developer shall execute a Reciprocal Access and Parking Agreement, which shall provide for reciprocal vehicular and pedestrian access and vehicular parking for the two parcels (APN: 086-011-046 & 086-011-047), to the satisfaction of the Community and Economic Development Director and in a form approved by the City Attorney.

LAND DEVELOPMENT ENGINEERING

22. Any public improvements that are missing, damaged or not to current City standards shall be designed per City standards in accordance with City Code (Article 7-1.701), standards and specifications, such improvements may include, but not be limited to curb & gutter, drive approach, sidewalk, ADA access ramps, fire hydrants and street lights. All public improvement plans shall be designed by a Registered Engineer, reviewed and approved by the City Engineer prior to issuance of an Encroachment permit.

23. There is an existing 12-inch water main available for connection in Crows Landing Road, utilize any existing water services as needed.
24. There is an existing 10-inch sewer main available for connection in Crows Landing Road, utilize any existing sewer services as needed.
25. There is not an existing positive storm drain available for this project to connect to. Storm water has to be kept on site according to current City of Modesto standards.

STORMWATER QUALITY

26. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit improvement plans conforming to design requirements of the most current edition City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures.
27. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board (SWRCB) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ.
28. The General Construction Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. Prior to issuance of a Grading, Demolition, or Building Permit, provide one copy of SWPPP to Land Development Engineering, Stormwater.
29. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot. Floor of enclosures shall be graded to drain into adjacent landscape areas.
30. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to integrate Low Impact Development (LID) principles into the project design. The plan shall retain and infiltrate the first 0.5" of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.
31. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5" of stormwater run-off from site.
32. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording.

TRAFFIC

33. The existing two southern most driveways fronting on Crows Landing Road that are fenced with gates shall be permanently removed and replaced with sidewalk, curb and gutter to City standards.
34. No on-street parking shall be allowed on Crows Landing Road.

PARKS, PLANNING & DEVELOPMENT

35. Applicant shall submit Landscape and Irrigation plans for review and approval by the City's Park Planning and Development Division. Landscape and Irrigation plans shall meet current State of California water use requirements, MMC requirements and City of Modesto standards at time of submittal.
36. Applicant shall install the required parking lot shade tree for all parking spaces identified so that, once the project is completed, it is in compliance with the MMC for parking lot shading.
37. Applicant shall install street trees on Crows Landing Road in the (E) sidewalk knock outs so that the site conforms to the City of Modesto's General Plan.
38. Applicant shall meet the Green Building Codes requirement for providing bike racks.

FIRE PREVENTION

39. An automatic fire sprinkler system installed in accordance with NFPA 13 will be required.
40. Fire hydrant spacing requirement for this project is 300 O.C. Onsite fire hydrants will be needed.
41. Underground mains, backflow preventers and check valves for hydrants and fire appliances shall be installed per Modesto City Standards.
42. Commercial Kitchens shall have hood and fire suppression systems installed in accordance with the California Building Code (CBC) and California Fire Code (CFC).
43. A fire alarm system installed in accordance with (CFC) and NFPA 72 will be required.

GENERAL

44. Prior to start of construction, all aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy, Green codes adopted by the City of Modesto.
45. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction.

46. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
47. At the time of issuance of any City permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
48. Capital Facilities Fees (CFF) will become due and payable at the time a building permit is issued. CFF will be calculated at the Commercial Retail rate of \$10,838 per 1,000 square foot. The total CFF for the proposed project is \$148,935.80. The CFF quoted above is valid through June 30, 2016.
49. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
50. 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, with Counsel selected by the City 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.

ENVIRONMENTAL

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

Air Quality:

51. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.
52. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
61. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
62. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

63. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)
64. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
65. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
66. Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

67. Limit traffic speeds on unpaved roads to 15 mph; and
68. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).
69. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
70. Install wind breaks at windward side(s) of construction areas.
71. Suspend excavation and grading activity when winds exceed 20 mph. Regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.
72. Limit the area subject to excavation, grading and other construction activity at any one time.
73. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."
74. The Noise Ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State or Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
 - a. A hammer or any other device or implement used to pound or strike an object.
 - b. An impact wrench or other tool or equipment powered by compressed air.

- c. A hand-powered saw.
 - d. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
 - e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
 - f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
 - g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.
 - h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
75. If archaeological resources are discovered at any time during construction, all activity shall cease until a qualified archaeologist surveys the site. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.

IT IS FURTHER RECOMMENDED that the construction program be accomplished as follows:

Initial phase construction to begin on or before October 5, 2017.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on October 5, 2015, by Carmen Morad, who moved its adoption, which motion was seconded by Mani Grewal and carried by the following vote:

| | |
|---------|---|
| Ayes: | Carter, Escutia-Braaton, Grewal, Lucas, Morad, Smith, Tyler |
| Noes: | None |
| Absent: | None |

Recused: None

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary