

PLANNING COMMISSION  
RESOLUTION NO. 2017-17

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 16-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(237) TO PLANNED DEVELOPMENT ZONE, P-D(602) PROPERTY LOCATED AT 1192 NORWEGIAN AVENUE (HARLESS PROPERTIES INC.)

WHEREAS, on August 14, 1979 by Ordinance 1867-C.S. and Resolution No.79-844 the Modesto City Council adopted Planned Development Zone P-D(237) that allowed a legally established but non-conforming broadcasting studio and parking lot on property located at 1192 Norwegian Avenue; and

WHEREAS, since adoption, the broadcast studio building was demolished and site vacated except for an existing radio broadcasting tower associated with the former broadcast studio, with cellular equipment and a cellular equipment lease area, which remains at the site; and

WHEREAS, a verified application for an amendment to Section 16-3-9 of the Zoning Map was filed by Harless Properties Inc. on January 20, 2017, to rezone from Planned Development Zone, P-D(237), to Planned Development Zone, P-D(602), to allow a senior assisted and independent living housing development comprised of two single-story residential buildings and a 16-unit storage building, in addition to an existing radio broadcasting tower with cellular equipment and cellular equipment lease area, property located at 1192 Norwegian Avenue, described as follows:

Planned Development Zone P-D(237) to Planned Development Zone P-D(602):

All that portion of Section 16, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, Stanislaus County, California, described as follows:

All of Parcel "A" as shown on the map filed in Volume 21 of Parcel Maps at Page 81, Stanislaus County Records.

Including also the southerly 30-feet of Norwegian Avenue, all being immediately adjacent to the above-described property.

APN: 120-048-013

WHEREAS, a public hearing was held by the Planning Commission on May 1, 2017, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, to address concerns raised at the May 1, 2017 hearing regarding noise and activities at the adjacent church, the Planning Commission requested that the applicant incorporate noise mitigation measures to the project; and

WHEREAS, a public hearing was held by the Planning Commission on June 19, 2017, in 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 2017-09, 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 change will not be detrimental to the public health, safety, or welfare because the rezone would provide for the development of senior assisted and independent living housing.
2. The requested change will result in an orderly planned use of land because the senior housing development would be compatible with the surrounding low and medium-high density residential uses surrounding the site.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowable uses of the Planned Development Zone P-D(602) is consistent with the General Plan Land Use Designation of Mixed Use (MU) which allows for senior housing and commercial uses such as cellular and radio broadcast facilities.
4. An Initial Study 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 Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
5. 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.
6. No new or additional mitigation measures or alternatives are required.
7. The subsequent project is within the scope of the project covered by the Master EIR.
8. 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.
9. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which

was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

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

SECTION I

That Section 16-3-9 of the Zoning Map be amended to rezone from Planned Development Zone P-D(237) to Planned Development Zone, P-D(602), the above-described property in accordance with the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the Development Plan titled "Site Plan, 120-048-013, Harless Properties Inc., 1192 Norwegian Avenue", as amended in red and stamped approved by the City Council on [date to be determined].
2. Prior to the issuance of a building 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 or designee.
3. 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 or Building permit.
4. The improvement plans shall include all landscaping, parking and common areas, and any and all easements required for the establishment of new utilities and the preservation of existing utilities.
5. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and City Engineer or designee. Easements for utilities, irrigation and electrical lines to remain shall be reserved as required. A 10-foot PUE is required along the Norwegian Avenue frontage.
6. Prior to the issuance of a building permit, building elevations shall be submitted for review and approval by the Community and Economic Development Director or designee for conformance to the City's Neighborhood Design Guidelines. Building elevations shall demonstrate wall materials, roof types, exterior colors and all appropriate dimensions.
7. No individual residential unit within the development shall be offered for sale until a Final Map for airspace condominium purposes is recorded.

8. The proposed storage buildings shall be for the use of the development's residents and management staff only, and shall not be made available for use by the general public.
9. Prior to the issuance of a building permit, plans for the residential units shall incorporate construction techniques to achieve an interior noise limit of 45 decibels or less, to the satisfaction of the Chief Building Official.
10. Prior to occupancy of any structure, fences and/or walls shall be constructed as follows, to the satisfaction to the Director of Community and Economic Development:
  - a. An eight-foot-high decorative masonry wall with cap treatment along the west and south property lines.
  - b. A seven-foot high decorative wrought-iron fence along the property's Norwegian Avenue frontage, fifteen feet back from the northern property line.
  - c. The decorative masonry wall shall be treated with an anti-graffiti coating along the west and south exterior facades.
11. 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.
12. Prior to issuance of a building permit, 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. Said plans shall include specifications of the proposed lighting fixtures and demonstrate the adequate shielding of lighting fixtures to minimize glare or light spillage upon neighboring residents west of the project site. The height of the lighting should not exceed 15 feet above grade.
13. Along pedestrian corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be used. Steps and ramps should be illuminated wherever possible, with built-in light fixtures to the satisfaction of the Director of Community and Economic Development.
14. All signs shall comply with the sign requirements of the R-3 Zone.
15. Prior to issuance of a building 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.

16. 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.
17. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
18. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are be completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.
19. 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.
20. This property is served by an existing service from an 8-in water main in Norwegian Avenue. The project shall utilize existing water service laterals for the new buildings.
21. This property conveys its wastewater to the City's existing 8-in main located in Norwegian Avenue. The project shall utilize existing sewer service laterals to service the new buildings.
22. This area of the City does not have a positive storm drainage system. The project shall manage storm water impacts on site per current City Standards and its amendments.
23. 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 of the City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.
24. 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, treat, and infiltrate the first 0.5" of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.
25. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, bioretention, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5" of stormwater run-off from site.

26. 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 and floor of enclosures shall be graded to drain into adjacent landscape areas.
27. 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.
28. 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.
29. The Construction General Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. The SWPPP shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction or demolition site to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement. Prior to issuance of a Grading, Demolition, or Building Permit, provide one paper copy of SWPPP to Land Development Engineering, Stormwater.
30. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy codes adopted by the City of Modesto.
31. Developer shall provide designated parking for any combination of low-emitting, fuel-efficient and carpool/van pool vehicles as required by the Green Building Standards Code.
32. Developer shall provide bicycle parking as required by the California Green Building Standards Code.
33. Fire hydrant spacing and distribution for this project is 500-feet O.C. Improvement plans shall demonstrate the provision of onsite fire hydrants as required.
34. Buildings shall be equipped with automatic fire sprinkler systems installed in accordance with NFPA 13 or 13R. Electronic monitoring of automatic fire sprinkler may be required if a separate sprinkler water supply or a separate shutoff valve from the domestic supply is provided.
35. Improvement plans shall demonstrate the provision of required fire hydrants within 90-feet of the Fire Department Connection (FDC) to fire sprinklers.
36. Plans for any electronically controlled vehicle access gates shall be submitted to an approved by the Fire Marshall prior to installation.

37. Where roadways are less than 28-feet in width, no parking shall be allowed within the aisle-way. When parking is prohibited or restricted, approved signs or curb markings complying with Modesto Standard Specifications for fire lanes shall be provided and maintained.
38. Prior to issuance of a building permit, applicant shall submit Landscape and Irrigation plans for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current State of California water use requirements, MMC requirements and City of Modesto standards at time of submittal.
39. Landscape and Irrigation Plans shall demonstrate a minimum of 15' landscaped setback from Norwegian Avenue planted with street trees that shall be equally spaced at a maximum of 35' on center. Provide 3ft. high screen landscaping between the parking lot and Norwegian Avenue to screen vehicle headlights in parking lot. The landscaping shall conform to the clear vision triangle regulation.
40. Applicant shall install parking lot shade trees per Modesto Municipal Code requirements; one (1) shade tree for every eight (8) parking spaces. There shall be a four-foot by five foot planting area for each tree planted. Parking lot shade trees shall be located no closer than fifteen (15') feet from parking lot light fixtures. Planter areas shall have permanent borders around the perimeter to prevent cars and pedestrians from damaging plant materials.
41. Applicant shall install a separate landscape water meter.
42. Climbing vines shall be included in the landscape surrounding the trash enclosures and CMU block walls to prevent tagging.
43. 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.
44. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
45. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
46. At the time of issuance of a building 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.
47. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction as required by Director of Community and Economic Development.

48. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
49. 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 following conditions are mitigation measures from the City of Modesto General Plan Master EIR to be applied to the project:

50. 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. [GPMEIR Policy AQ-42]
51. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. [GPMEIR Policy AQ-43]
52. 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. [GPMEIR Policy AQ-44]
53. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. [GPMEIR Policy AQ-45]
54. 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. [GPMEIR Policy AQ-46]
55. 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.) [GPMEIR Policy AQ-47]
56. 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. [GPMEIR Policy AQ-48]



57. 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. [GPMEIR Policy AQ-49]
58. Any site with 150 or more vehicle trips per day shall prevent carryout and track out. [GPMEIR Policy AQ-50]
59. The City has also established a noise ordinance to control noise within the City. 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." [GPMEIR Policy N-1]
60. Additionally, 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 hammer, or any other device or implement used to pound or strike an object.
  - a. An impact wrench, or other tool or equipment powered by compressed air.
  - b. A hand-powered saw.
  - c. 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.
  - d. 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.
  - e. 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), piledriving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
  - f. 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. [GPMEIR Policy N-2]

61. The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: 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. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected. [GPMEIR Policy N-3]
62. Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. [GPMEIR Policy SD-9 and FWQ-13]

## SECTION II

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

1. A senior assisted and independent living housing development for residents 55 years and older comprised of two single-story residential buildings and common areas, together with a storage building for the sole use of the residents of the housing development;
2. Existing radio broadcasting tower with cellular equipment and cellular equipment lease area, on an as-is basis in accordance to Article 4, Chapter 3 of Title 10 of the Modesto Municipal Code.

## SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin on or before two (2) years from the adoption of the rezone to Planned Development P-D(602) by the City Council, and completion to be not later than three (3) years from the date of adoption.

## SECTION IV

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that they adopt a resolution certifying that the rezoning is within the scope of the General Plan EIR.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on June 19, 2017, by Commissioner Biring, who moved its adoption, which motion was seconded by Commissioner Morad and carried by the following vote:

Ayes: Biring, Escutia-Braaton, Lucas, Morad, Smith  
Noes: None  
Absent: Pollard, Vohra  
Recused: None

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary