

ORDINANCE NO. 3747-C.S.

AN ORDINANCE AMENDING SECTION 17-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, AND COMMERCIAL-INDUSTRIAL ZONE, C-M, TO PLANNED DEVELOPMENT ZONE, P-D(615), PROPERTY LOCATED AT 1601 AND 1625 MCHENRY AVENUE (CITY INITIATED)

WHEREAS, a verified application for an amendment to Section 17-3-9 of the Zoning Map was filed by the City of Modesto on May 10, 2022, to rezone from Low Density Residential Zone, R-1, and Commercial-Industrial Zone, C-M, to Planned Development Zone, P-D(615) property located at 1601 and 1625 McHenry Avenue; and

WHEREAS, after a public hearing held on June 20, 2022, it was found and determined by the Planning Commission that the requested zone change will not be detrimental to the public health, safety or welfare because the Commercial Industrial (C-M) Zone is a legacy zone that permits industrial uses that are not compatible with nearby residential uses, the requested zone change will result in an orderly planned use of land because the rezone will align the property with the current General Plan Corridor Development Concept for this site and allow land use compliant with the goals and policies for site development, and the requested zone change is in accordance with the community objectives as set forth in the Modesto Urban Area General Plan and any applicable specific plans(s) because the change would allow existing professional office and non-auto related retail commercial uses to remain; and

WHEREAS, by Resolution No. 2022-18, adopted on June 20, 2022, the Planning Commission recommended to the Council that the application of the City of Modesto to amend Section 17-3-9 of the Zoning Map to rezone the hereinafter described

property from Low Density Residential Zone, R-1, and Commercial-Industrial Zone, C-M, to Planned Development Zone, P-D (615), be approved.

NOW, THEREFORE, the Council of the City of Modesto does ordain as follows:

SECTION 1. After a public hearing held on August 9th, 2022, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, this Council finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety or welfare because the current Commercial Industrial (C-M) Zone is a legacy zone that permits industrial uses that are not compatible with nearby residential uses, said zone originally enacted in July of 1955 to allow for the operation of a then-existing milk processing facility that has since been demolished and redeveloped with new retail commercial and professional office uses. The requested change to Planned Development Zone, P-D(615) would allow for professional office and non-auto related retail commercial uses to remain. Industrial uses would not be allowed that could be incompatible with surrounding uses.
2. The requested change will result in an orderly planned use of land because rezone will align the property with the current General Plan Corridor Development Concept for this site and allow land use compliant with the goals and policies for site development.
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 change would allow existing professional office and non-auto related retail commercial uses to remain.

The Council of the City of Modesto does ordain as follows:

SECTION 2. ZONING CHANGE. Section 17-3-9 of the Zoning Map is hereby amended to reclassify the following described property from Low Density

Residential Zone, R-1, and Commercial-Industrial Zone, C-M, to Planned Development Zone, P-D(615):

R-1 to P-D(615)

All that certain real property situates in the City of Modesto, County of Stanislaus, State of California, lying within the Southeast Quarter of Section 17, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

Lots 1 through 5 and the northerly 19.61 feet of Lot 6 in Block 6198 of the Hudelson Tract, recorded on December 9, 1946, in Volume 16 of Maps at Page 9, Stanislaus County Records.

Also including the southerly one-half of Judith Lane, the easterly one-half of Timothy Avenue and the 20-foot wide alley, all being immediately adjacent to the above description.

1.46 acres, more or less.

Subject to all easements and/or rights of way of record.

APN 119-005-017.

C-M to P-D(615)

All that certain real property situates in the City of Modesto, County of Stanislaus, State of California, lying within the Southeast Quarter of Section 17, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

All that portion of Lot 1 of the Fresno Tract being more particularly described as follows:

Commencing from the southeast corner of Lot 1 of the Fresno Tract, recorded on March 14, 1903 in Volume 1 of Maps at Page 76, Stanislaus County Records, said southeast corner also being the southeast corner of Section 17, Township 3 South, Range 9 East, North 00° 19' 01" West a distance of 30 feet; thence North 87° 54' 27" West a distance of 42 feet to the Point of Beginning of this description, thence the following four courses:

1. North 00° 19' 00" West, a distance of 500 feet
2. North 88° 31' 43" West a distance of 278 feet
3. South 00° 19' 02" East a distance of 500 feet,

4. thence South 88° 31' 43" East a distance of 278 feet to the Point of Beginning.

Also including the southerly half of Judith Lane, the westerly half of McHenry Avenue and the northerly half of Granger Avenue, all immediately adjacent to the above description.

4.1 acres, more or less.

Subject to all easements and/or rights of way of record.

APNs 119-005-003 and 119-005-004.

SECTION 3. USES. The following uses shall be permitted in said P-D(615) Zone, with proposed new development subject to consideration and approval by the Planning Commission in a public hearing prior to issuance of a building permit, in accordance to Modesto Municipal Code Title 10, Chapter 7:

1. Mixed use new development that shall include:
 - (a) Residential development at densities permitted in the Medium High Density Residential (R-3) Zone, and
 - (b) Retail commercial and office uses as permitted in the General Commercial (C-2) Zone, excluding the following vehicle-oriented uses: new and/or used vehicle rental or sales; gas stations, vehicle audio/stereo installation; vehicle repair and service; towing and service yard; recreational vehicle sales, service or storage.
 - (c) Proposed new development shall include residential uses of at minimum 14.5 units per net acre.
- (2) Reuse of the existing retail commercial building for C-2 uses, excluding the above vehicle-oriented uses.

SECTION 4. ZONING MAP. Section 17-3-9 of the Zoning Map of the City of Modesto is amended to appear as set forth on the map attached hereto, which is hereby made a part of this ordinance by reference.

SECTION 5. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 6. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing Ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of August, 2022, by Councilmember Escutia-Braaton, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ricci, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright, Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
SUE ZWAHLEN, Mayor

ATTEST:

By: _____
DIANE NAYARES-PEREZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
JOSE M. SANCHEZ, City Attorney

APPROVED AS TO DESCRIPTION:

By: _____
Community & Economic Development
Department, Planning Division

FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 23rd of August, 2022, Councilmember Kenoyer, moved its final adoption, which motion being duly seconded by Councilmember Wright, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Escutia-Braaton, Kenoyer, Madrigal, Ricci, Wright,
Mayor Zwahlen

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED: _____
SUE ZWAHLEN, MAYOR

ATTEST: _____
DIANE NAYARES-PEREZ, City Clerk

Effective Date: September 22, 2022