

ORDINANCE NO. 3748-C.S.

AN ORDINANCE AMENDING SECTION 17-3-9 OF THE ZONING MAP OF THE CITY OF MODESTO TO REZONE FROM COMMERCIAL-INDUSTRIAL (C-M) ZONE TO GENERAL COMMERCIAL (C-2) ZONE, PROPERTY LOCATED AT 1707 MCHENRY AVENUE (CITY OF MODESTO)

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 Commercial-Industrial Zone, C-M, to General Commercial Zone, C-2, property located at 1707 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 current 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 existing retail and professional office development with the current General Plan land use designation of Commercial (C) uses and provide for uses as allowed in the General Commercial (C-2) Zone, 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 retail commercial uses to remain; and

WHEREAS, by Resolution No. 2022-17, 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 Commercial-Industrial Zone, C-M, to General Commercial Zone, C-2, 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Zone is a legacy zone that permits industrial uses that are not compatible with nearby residential uses, said zone originally enacted in July of 1955 to allow for the operation of a then-existing milk processing facility that has since been demolished and redeveloped with new retail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 General Commercial (C-2) would allow for the retail and professional office buildings 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 existing retail and professional office development with the current General Plan land use designation of Commercial (C) uses and provide for uses as allowed in the General Commercial (C-2) Zone.
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 retail commercial uses to remain.

SECTION 2. ZONING CHANGE. Section 17-3-9 of the Zoning Map is hereby amended to rezone the following described property from Commercial-Industrial Zone, C-M, to General Commercial, C-2:

C-M to C-2

All that certain real property situated 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 2 of the Fresno Tract being more particularly described as follows:

Beginning at the northwest corner of "Parcel A" of the Parcel Map recorded on December 21, 1966 in Volume 2 of Parcel Maps at Page 113, Stanislaus County Records, thence South 00°30' 40" East along the west line of said "Parcel A" a distance of 419.11 feet, thence North 88° 31' 30" West a distance of 259.39 feet, thence North 00° 30' 00" West a distance of 411.82 feet, thence South 89° 46' 25" West a distance of 256.71 feet to the point of Beginning.

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

3.34 acres, more or less.

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

APN 119-005-021.

SECTION 3. 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 4. 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 5. 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 Wright, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Escutia-Braaton, 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 NAYERES-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