

PLANNING COMMISSION
RESOLUTION NO. 2009-25

A RESOLUTION FOR A REVISED RECOMMENDATION TO THE CITY COUNCIL FOR AN AMENDMENT TO SECTIONS 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 OF THE ZONING MAP TO PREZONE TO PLANNED DEVELOPMENT ZONE, P-D, PROPERTY LOCATED APPROXIMATELY SEVEN MILES SOUTHWEST OF THE MODESTO CITY LIMITS ON SOUTH SIDE OF KEYES ROAD, WEST OF VIVIAN ROAD (CITY OF MODESTO)

WHEREAS, the City of Modesto is the owner of approximately 4,793 acres of real property on which the City's Secondary Wastewater Facility was constructed, located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a verified application for an amendment to Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map was filed by the City of Modesto, on June 25, 2007, to prezone to Low-Density Residential (P-R-1) Zone, to allow for the annexation of the existing Secondary Plant, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on July 20, 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, on July 20, 2009 the Planning Commission adopted resolution 2009-20 recommending that the City Council prezone the Secondary Plant Wastewater Treatment Plant to Low Density Residential, R-1, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road; and

WHEREAS, on August 7, 2009, City Staff met with Stanislaus County Staff pursuant to Government Code Section 56425 to discuss Sphere of Influence boundaries, development standards and zoning requirements; and

WHEREAS, County Staff expressed concerns with the proposed prezoning of the subject property to Low Density Residential, R-1; and

WHEREAS, City Staff agreed to bring a revised recommendation back to the Planning Commission to prezone the subject property to Planned Development Zone, P-D rather than Low Density Residential, R-1; and

WHEREAS, a verified application for an amendment to Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map was re-filed by the City of Modesto, on August 8, 2009, to prezone to Planned Development Zone, P-D, to allow for the annexation of the existing Secondary Plant, property located approximately seven miles southwest of the Modesto city limits on the south side of Keyes Road, West of Vivian Road as described in Exhibit "A" attached hereto ("Property"); and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on September 14, 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 2009-19, which concluded that the project is within the scope of the Wastewater Master Plan Update Master EIR (SCH No. 2006052076) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required.

NOW, THEREFORE, the Planning Commission of the City of Modesto hereby revises its recommendation and recommends that the City Council find as follows:

1. The requested rezoning of the Property as requested is required by public convenience or necessity for the following reasons:
 - a. The proposed rezoning will allow for the continued operation of the Secondary Plant.
 - b. Result in orderly planning and use of land resources because the continued operation and future expansion of the Secondary Plant will be consistent with the Wastewater Master Plan Update.
2. The proposed rezoning is consistent with the Modesto Urban Area General Plan, because:
 - a. General Plan Policy III.C.1.e, calls for the annexation and expansion of the Secondary Treatment Plant as appropriate and as needs dictate; and
3. All applicable policies, regulations, and mitigation measures identified in the Wastewater Master Plan Update Master EIR (MEIR) have been applied to the project or otherwise made Conditions of Approval of the project; and
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; and
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 beyond that which was 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 2009-19, provides the substantial evidence to support findings 4 and 5, noted above.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the application of the City of Modesto to amend Sections 33-4-8, 32-4-8, 5-5-8, 4-5-8, 3-5-8, 9-5-8, 10-5-8, 11-5-8, 16-5-8, 15-5-8, 14-5-8, 22-5-8, 23-5-8 of the Zoning Map to prezone the property described above to Planned Development Zone, (P-D) Zone, be approved.

BE IT FURTHER RESOLVED that the following uses shall be authorized in said Planned Development Zone:

Structures or grounds operated by a government agency, including but not limited to: wastewater treatment and storage facilities, reclaimed water and bio-solids disposal area, agricultural operations, law enforcement firing range, compost facility and other ancillary uses approved by the City Council.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on September 14, 2009 by Chris Tyler, who moved its adoption, which motion was seconded by Ted Brandvold, and carried by the following vote:

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

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO

Original, signed copy on file in CEDD

Patrick Kelly, Secretary

Attachment: Exhibit "A" Legal Description

Exhibit "A"

LEGAL DESCRIPTION

SECONDARY PLANT REZONE TO PLANNED DEVELOPMENT, P-D

LEGAL DESCRIPTION

All that certain property situate, lying, and being portions of Sections 32, 33, and 34, Township 4 South, Range 8 East, Mount Diablo Base and Meridian, and portions of Sections 2, 3, 4, 5, 9, 10, 11, 14, 15, 16, 22, and 23, Township 5 South, Range 8 East, Mount Diablo Base and Meridian, lying in the County of Stanislaus, State of California, and being more particularly described as follows:

BEGINNING at the intersection of the northeasterly bank of the San Joaquin River with the north line of Section 5, Township 5 South, Range 8 East, said point being 1940.61 feet west of the Northeast corner of said Section 5, measured along the north line of said Section 5, thence the following twenty three (23) courses:

- 1) South 89°59'19" East 120.00 feet, along the north line of said Section 5, to the southwesterly corner of that certain tract of land commonly identified as Assessor's Parcel 17-61-14; thence
- 2) North 31°17'15" East 2196.48 feet, along the northwesterly line of the aforementioned tract of land, to the northerly corner thereof; thence
- 3) South 57°40'55" East 563.69 feet, along the northeasterly line of the aforementioned tract of land, also being along the southwesterly line of Parcel 1, as shown on that certain Parcel Map filed in Book 9 of Parcel Maps, at Page 93, Stanislaus County Records, to the southerly corner of said Parcel 1, also being a point on the northerly line of the Westport Drain; thence
- 4) North 47°46'05" East 175.78 feet, along the northerly line of said Westport Drain, to an angle point in said northerly line; thence
- 5) South 81°49'46" East 965.70 feet, continuing along said northerly line; thence
- 6) North 77°00'15" East 1979.94 feet, continuing along said northerly line; thence
- 7) South 52°48'45" East 1635.36 feet, continuing along said northerly line; thence
- 8) North 84°06'15" East 1220.77 feet, continuing along said northerly line; thence
- 9) South 46°52'45" East 1616.86 feet, continuing along said northerly line; thence
- 10) South 89°33'45" East 2608.68 feet, continuing along said northerly line; thence

- 11) South 80°03'55" East 300.00 feet, continuing along said northerly line; thence
- 12) South 89°33'45" East 1212.42 feet, continuing along said northerly line, to the intersection of said northerly line with the east right-of-way line of Jennings Road, said east right-of-way line being 20.00 feet east, measured at a right angle, of the east line of said Section 2, Township 5 South, Range 8 East; thence
- 13) South 00°26'32" West 2686.49 feet, along the east right-of-way line of said Jennings Road, being parallel with and 20.00 feet east, measured at a right angle, of the east line of said Section 2, to a point on the south right-of-way line of Zeering Road; thence
- 14) South 90°00'00" West 20.00 feet, along the south right-of-way line of said Zeering Road, to a point on the east line of said Section 2; thence
- 15) South 00°26'32" West 2593.63 feet, along the east line of said Section 2, to a point on the north right-of-way line of Monte Vista Avenue, said north right-of-way line being 30.00 feet north, measured at a right angle, of the north line of said Section 11, Township 5 South, Range 8 East; thence
- 16) South 89°29'02" East 2646.38 feet, along the north right-of-way line of said Monte Vista Avenue, being parallel with and 30.00 feet north, measured at a right angle, of the north line of said Section 11, to a point on the northerly extension of the north-south $\frac{1}{4}$ section line of said Section 11; thence
- 17) South 00°27'47" West 5317.77 feet, along said north-south $\frac{1}{4}$ section line, and northerly extension thereof, to the south $\frac{1}{4}$ corner of said Section 11; thence
- 18) South 89°31'26" East 2646.67 feet, along the south line of said Section 11, to the southeast corner of said Section 11; thence
- 19) South 00°07'48" West 2641.61 feet, along the east line of said Section 14, Township 5 South, Range 8 East, to the east $\frac{1}{4}$ corner of said Section 14; thence
- 20) South 00°08'00" West 2642.52 feet, along the east line of said Section 14, to the southeast corner of said Section 14; thence
- 21) South 00°26'51" West 5309.76 feet, along the east line of said Section 23, Township 5 South, Range 8 East, to the southeast corner of said Section 23; thence
- 22) North 89°44'09" West 1759.80 feet, along the south line of said Section 23, to the intersection of the south line of said Section 23 with the northeasterly bank of the aforementioned San Joaquin River; thence

23) Meander downstream in a northwesterly direction along the northeasterly bank of said San Joaquin River 40280 feet, more or less, to the point of beginning.

Containing a total of 4797.2 acres, more or less.

Subject to covenants, conditions, restrictions, reservation, rights, rights-of-way, and easements of record.