

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2013-05

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO GALLO GLASS COMPANY TO ALLOW FOR A PARKING LOT IN THE R-3 ZONE FOR AN ADJACENT NON-RESIDENTIAL USE IN A NON-RESIDENTIAL ZONE LOCATED ON THE EAST SIDE OF SOUTH SANTA CRUZ AVENUE AND THE NORTH SIDE OF LARKIN AVENUE (GALLO GLASS COMPANY)

WHEREAS, an application for a Conditional Use Permit to allow a parking lot in the R-3, Medium-High Density Residential Zone for an adjacent non-residential use in a non-residential zone located on the east side of South Santa Cruz Avenue and the north side of Larkin Avenue, was filed by Hawkins & Associates Engineering, Inc. on behalf of Gallo Glass Company on June 28, 2013; and

WHEREAS, Sections 10-1.302(a) and 10-9.703 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 22, 2013, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this project is Categorically Exempt under Section 15311 of the CEQA Guidelines, which exempts the construction or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including small parking lots.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds and determines as follows:

1. The proposed conditional use is consistent with the objectives and requirements of Title 10 (Zoning Regulations) because parking lots are allowed in the R-3 residential zone. Adjacent to non-residential uses in non-residential zones per Title 10, Table 3.1-1 of the MMC, upon securing a Conditional Use Permit from the Board of Zoning Adjustment; adherence with all applicable site development standards, regulations, and conditions will ensure that the proposed application will result in an orderly, planned use of land resources.
2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the General Plan land use designation for the property is Residential, which allows for uses permitted in the R-1, R-2, and R-3 Residential Zones. Since parking lots adjacent to non-residential developments are allowed in the R-3 Zone with a Condition Use Permit, the application is therefore consistent with the General Plan.
3. The proposed conditional use will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity because this parking lot will be required to

meet all applicable Zoning, Building and Fire Code Standards, and Stanislaus County Health and Safety Codes.

4. The proposed conditions of approval will ensure compatibility with the surrounding uses because screen landscaping is required along the perimeter of the property, an 8-foot high masonry block wall is required along the north, east and south property lines, and parking lot lighting is required to be shielded to minimize glare upon adjacent residences.
5. The proposed project is exempt from CEQA under Section 15311 of the CEQA Guidelines, which exempts the construction or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including small parking lots.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for the parking lot in the R-3, Medium-High Density Residential Zone on the north east corner of Larkin Avenue and South Santa Cruz Avenue be granted subject to the following conditions:

PLANNING

1. Prior to the issuance of a building permit, all development shall conform to the development plan titled "Conditional Use Permit Application, Site Plan Exhibit, Gallo Glass, Inc. City of Modesto, California", stamped approved by the Board of Zoning Adjustment on August 22, 2013.
2. Prior to the issuance of a building permit, a revised plan showing the relocation of the entrance/exit driveway to the S. Santa Cruz Avenue frontage shall be submitted. The location of driveway shall be as approved by the Community and Economic Development Director or designee.
3. Prior to issuance of a building permit, any variation from the approved parking lot site plan on file with the City must be reviewed and approved by the Director of Community and Economic Development.
4. 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.
5. All activity in the parking lot shall comply with the City's noise ordinance.
6. Prior to occupancy of the parking lot, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-2.2004, Parking Lot Design.
7. 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).

8. The applicant shall install screen landscaping along the north, south and east sides of the parcel abutting residential to the satisfaction of the Director of Community and Economic Development or Designee.
9. Prior to occupancy of the parking lot, fences and/or walls shall be constructed as follows, to the satisfaction to the Director of Community and Economic Development:
 - An 8-foot high decorative masonry wall with cap treatment along the north, east and south property lines.
 - A 6-foot high minimum decorative wrought-iron fence with decorative masonry pilasters and a cap treatment at 16 feet on center along the S. Santa Cruz Avenue and Larkin Avenue frontages.
10. Prior to the issuance of a building permit, a wall plan shall be submitted by the applicant and approved by the Director of Community and Economic Development. The plans shall indicate materials, colors and height of proposed and existing wall/fences and shall include a cross-section of walls/fences indicating adjacent grades. Walls shall be designed as an integral part of the architecture for the development and shall be constructed of concrete, brick, split-face or slump block.
11. Prior to the 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.
12. Parking lot light fixtures shall be arranged so as to reflect the light away from any area upon which a dwelling is located.
13. Parking lot light fixtures should not exceed 12 feet in height when adjacent to residential neighborhoods unless the setback of the fixture from the property line is twice the height of the fixture.
14. All signs shall comply with the sign requirements of the R-3 Zone.

LAND DEVELOPMENT ENGINEERING

15. 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 an Encroachment permit.

STORM WATER QUALITY

16. Prior to the issuance of a Grading or Building Permit, Developer shall submit plans conforming to the current edition of the City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures.

17. 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 General Construction Permit for Stormwater Discharges Order # 2009-0009-DWQ. The Board will issue the Property Owner a Waste Discharge Identification (WDID) Number. Provide one copy of WDID Number to Land Development Engineering.
18. Prior to the issuance of a Grading, Demolition or Building Permit, Property Owner shall develop a Stormwater Pollution Prevention Plan (SWPPP) for the project, meeting all requirements of the State Water Resources Control Board General Construction Permit for Stormwater Discharges Order # 2009-0009-DWQ. Provide one copy of SWPPP to Land Development Engineering.
19. Prior to the issuance of a Grading or Building Permit, Developer shall submit plans to retain and infiltrate the first ½" of stormwater runoff from parking lot on site, utilizing pervious landscape features (Low Impact Development) in the project design.
20. Prior to the issuance of a Grading or Building Permit, Developer shall submit plans to provide permanent, post-construction treatment (grass swale or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from parking lot.
21. Prior to the issuance of a Grading 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.

PARKS, RECREATION & NEIGHBORHOODS

22. If project is approved, applicant shall submit Landscape and Irrigation plans for review and approval by the Parks, Recreation and Neighborhoods Department Director or designee. L&I plans shall meet current State of California water requirements, MMC requirements and City of Modesto standards at time of submittal.
23. Project shall include specifying that climbing vines be planted next to the CMU block walls on the north, east and south property lines as a deterrent to graffiti. Spacing shall be no greater than 10' on center.
24. Applicant shall provide a landscape and irrigation design that does not allow storm water or irrigation water runoff on to hardscape; all water shall be contained on site.
25. Applicant shall provide for parking lot screen landscaping along South Santa Cruz and Larkin Avenues. Mounding of planter is not allowed to provide for landscape screening.

BUILDING SAFETY

26. Paint the words "NO PARKING" in 12" high letters in the cross-hatched exit area next to the accessible parking stalls.
27. The loading/unloading access aisle next to the accessible parking stalls shall be marked by a blue painted border. Within the blue border, hatched lines a maximum of 36" on center shall be painted white. CBC 1129B.3(1).

GENERAL

28. All department Conditions of Approval for the project shall be included with parking lot plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
29. All screen landscaping, landscaping (i.e.: trees, shrubs, climbing vines, etc.) fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
30. 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.
31. 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.
32. 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.

DEVELOPMENT SCHEDULE

33. Project approval shall become null and void two (2) years following the effective date of approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion.

Failure to comply with any of the above conditions is unlawful and will constitute grounds for revocation of the conditional use permit.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these

conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on August 22, 2013, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the conditional use permit granted on August 22, 2013 becomes null and void if not exercised on or before August 22, 2015.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on August 22, 2013, by Ryan Swehla, who moved its adoption, which motion was seconded by Hank Pollard and carried by the following vote:

Ayes:	Bergman, Matas, Pollard, Swehla
Noes:	None
Absent:	French, Smith
Recused:	Grover

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD
Patrick Kelly, Secretary