

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2013-07

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO ALLOW FOR AN EXPANSION TO THE SIERRA VISTA FAMILY RESOURCE DROP-IN CENTER LOCATED ON THE SOUTH SIDE OF SIERRA DRIVE BETWEEN ROSELAWN AND ROSEDALE AVENUES (SIERRA VISTA CHILDREN'S CENTER)

WHEREAS, an application for a Conditional Use Permit to allow for the expansion to the Sierra Vista Family Resource Drop-In Center located on the south side of Sierra Drive between Roselawn and Rosedale Avenues, was filed by Hawkins & Associates Engineering, Inc. on behalf of the Sierra Vista Children's Center on September 5, 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 November 21, 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 15332 of the CEQA Guidelines, which pertains to In-Fill Development Projects, and is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; is within city limits and no more than five acres and surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; will not result in any significant effects relating to traffic, noise, air quality, or water quality; and can be adequately served by all required utilities and public services.

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 educational facilities are allowed in the 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 educational facilities are allowed in the R-2 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 the expansion to the facility 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 the use is low-intensity and not disruptive to the neighborhood, and because the required parking will be located off the alley therefore allowing on street parking for residents of the neighborhood.
5. This project is Categorical Exempt under Section 15332 of the CEQA Guidelines, which pertains to In-Fill Development Projects, and is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; is within city limits and no more than five acres and surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; will not result in any significant effects relating to traffic, noise, air quality, or water quality; and can be adequately served by all required utilities and public services.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for the facility expansion in the R-2, Medium Density Residential Zone on the south side of Sierra Drive between Roselawn and Rosedale Avenues 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 and building elevations titled " Conditional Use Permit Plot Plan – Sierra Vista Drop-In Center 908 & 912 Sierra Drive, City of Modesto, California", stamped approved by the Board of Zoning Adjustment on November 21, 2013.
2. Prior to 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.
3. 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.
4. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-2.2004, Parking Lot Design.
5. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements.

6. 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. Parking lot light fixtures shall be arranged so as to reflect the light away from any area upon which a dwelling is located.
7. 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.
8. All signs shall comply with the sign requirements of the R-2 Zone.
9. Prior to issuance of 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.
10. 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.
11. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings
12. 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.
13. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
14. 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.
15. 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

16. 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.

LAND DEVELOPMENT ENGINEERING

17. 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 to be designed by a Registered Engineer, reviewed and approved by the City Engineer prior to issuance of an Encroachment permit.
18. Prior to issuance of a building permit, improvement plans for required public improvements including those to the alley for drainage to meet City Standards. All plans to be prepared by a registered civil engineer and approved by the City Engineer.
19. Prior to the issuance of a Grading or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local SWPPP to Land Development Engineering, Stormwater for review. The submittal shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction 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.
20. Prior to the issuance of a Grading or Building Permit, Developer shall provide improvement plans for project conforming to the City of Modesto 2011 Guidance Manual for Development Stormwater Quality Control Measures.
21. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to retain and infiltrate stormwater runoff on site, incorporating pervious landscape (Low Impact Development) features into the project design.
22. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.

23. 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.
24. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy , Green codes adopted by the City of Modesto.
25. If the building permit application date is on or after January 1, 2013, the 2013 California Green Building Code will apply to the addition and alteration.
26. The property owner is to provide permanently anchored bicycle racks within 200 feet of the entrance, readily visible to passers-by, for 5 percent of visitor motorized vehicle parking capacity, with a minimum of one two-bike capacity rack.
27. The property owner is to provide secure bicycle parking for 5 percent of motorized vehicle parking capacity, with a minimum of one space. Acceptable parking facilities shall be convenient from the street and may include:
 1. Covered, lockable enclosures with permanently anchored racks for bicycles;
 2. Lockable bicycle rooms with permanently anchored racks; and
 3. Lockable, permanently anchored bicycle lockers.
28. The property owner is to provide one designated parking space for low-emitting, fuel-efficient or carpool/van pool.

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 November 21, 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.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the Secretary of the Board is directed to file with the Stanislaus County Clerk a Notice of Determination in regard to the environmental impact of the proposed conditional use permit.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on November 21, 2013, by Hank Pollard, who moved its

adoption, which motion was seconded by John Bergman and carried by the following vote:

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

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary