

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2014-02

A RESOLUTION GRANTING A REDUCTION IN OFF-STREET PARKING FOR
A BANQUET HALL, PROPERTY LOCATED AT 921 8TH STREET
(ARREDONDO)

WHEREAS, in 2007, the City issued a building permit to construct a new warehouse building with 22 off-street parking spaces at 921 8th Street; and

WHEREAS, the permit was not pursued to completion and in 2013, the owner proposed to complete construction and utilize the building as a banquet hall, which requires 164 off-street parking spaces to meet Modesto Municipal Code requirements; and

WHEREAS, an application for a reduction in parking pursuant to Section 10-5.104(a) of the Modesto Municipal Code to permit a banquet hall at 921 8th Street was filed by Mr. Fernando Arredondo on January 29, 2014; and

WHEREAS, Section 10-9.102 of the Modesto Municipal Code authorizes the Board of Zoning Adjustment to grant a reduction in off-street parking subject to findings specified in Section 10-5.104(a); and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on February 27, 2014 in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

WHEREAS, the proposed variance is exempt from CEQA, pursuant to Section 15332 of the CEQA Guidelines, which exempts in-fill development.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that based upon such evidence it finds and determines that:

1. The normal hours of operation of such uses or activities do not substantially coincide or overlap with each other and/or the peak hour parking demand, because the hours of operation for the banquet hall will be primarily evenings and weekends. The uses surrounding the subject property are primarily commercial uses with hours of operation that do not overlap with the proposed banquet facility. The use of on-street parking by the banquet facility during the evenings and weekends will not impact these businesses.
2. The adjacent or nearby properties will not be adversely affected relative to parking because the subject property is primarily surrounded by commercial uses with hours of operation that do not overlap with the proposed banquet hall. Due to the abundance of available public parking adjacent to the site, adjacent or nearby properties will not be adversely affected.
3. The traffic and pedestrian circulation resulting from the off-site or shared parking approval will not be detrimental to the public health, safety and welfare because there are multiple options for public and on-street

parking in the surrounding area. Each of these parking areas can be safely accessed by vehicles and pedestrians. Pedestrians can travel on sidewalks and crosswalks between each of the parking lots and the banquet facility.

4. The development is located near available on-street parking or other public parking areas: the banquet hall has access to approximately 409 public parking spaces within a two-block radius. The available parking will be sufficient to satisfy the parking demand for the banquet hall.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants to Mr. Fernando Arredondo a parking reduction from the provisions of Section (s) 10-5.104(a) of the Modesto Municipal Code to permit reduced parking at the banquet hall located at 921 8th Street, subject to the following conditions:

1. The property owner and applicant 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.

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 February 27, 2014, 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.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on February 27, 2014, by Dennis Smith, who moved its adoption, which motion was seconded by John Bergman and carried by the following vote:

Ayes:	Bergman, French, Morris, Pollard, Rodriguez, Smith
Noes:	None
Absent:	Matas
Recused:	None

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary