

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2017-07

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
CONNECTING WATERS CHARTER SCHOOL FOR A NEW PUBLIC CHARTER
SCHOOL LOCATED AT 2300 BRIGGSMORE AVE

WHEREAS, on May 13, 2003 the City Council by Ordinance No. 3298-C.S. adopted the rezone of 2300 Briggsmore Avenue from Low Density Residential (R-1) Zone to Planned Development Zone P-D(560), allowing for a church and professional office uses as permitted in the Professional Office (P-O) Zone; and

WHEREAS, Section 10-3.101 Table 3.1-1 of the Modesto Municipal Code (Municipal Code) allows the establishment of public schools including charter schools within the Professional Office (P-O) Zone with a Conditional Use Permit; and

WHEREAS, an application for a Conditional Use Permit for a new public Kindergarten-Grade 12 public charter school located within Planned Development Zone P-D(560) at 2300 Briggsmore Avenue, was filed by Connecting Water Charter School on October 4, 2017; and

WHEREAS, Section 10-9.102 of the Municipal Code authorizes 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 16, 2017, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed project is categorically exempt from environmental review in accordance with Section 15332 of the California Environmental Quality Act Guidelines, which exempts infill projects when the proposed development occurs within city limits on a site of no more than five acres that is substantially surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, can be adequately served by all required utilities and public services, is consistent with the applicable General Plan designation and all applicable General Plan policies as well as applicable zoning designations and regulations, and of which approval of the project would not result in any significant effects relating to traffic, noise air quality or water quality.

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

1. The proposed conditional use permit is consistent with the objectives and requirements of Title 10 (Zoning Regulations) because the Planned Development zoning of the site, Planned Development Zone P-D(560) allows for professional offices as allowed in the Professional Office (P-O) Zone, in which public schools including charter schools are allowed with a conditional use permit.
2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the K-12 Charter

School is consistent with the Mixed Use (MU) land use designation of the site, which allows for institutional uses such as public schools.

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 proposed public charter school will utilize a home-school educational model with primary function as a resource center for parents, and therefore would not have the same traffic or noise impacts as a traditional elementary and high school.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because the proposed plan and conditions as applied will ensure conformity to applicable Zoning Codes, City standards, and building codes and regulations.
5. The proposed project is categorically exempt from under Section 15332 of the CEQA Guidelines because the project is in-fill development that is consistent with the general plan and zoning designations, is within the city limits on a site that is less than five acres and surrounded by urban uses, has no value as habitat for endangered, rare or threatened species, would not result in any significant impacts, and can be served by all required utilities and public services.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for a new Kindergarten-Grade 12 public charter school located within Planned Development Zone P-D(560) at 2300 Briggsmore Avenue be granted subject to the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the development plan and building elevations titled "Connecting Waters Charter School Renovation and Expansion Project", stamped approved by the Board of Zoning Adjustment on November 16, 2017.
2. 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.
3. Where new parking stalls are located next to a landscape planter or walkway, stalls should have a dimension of 9ft. by 15.5 ft. with a 2.5 ft. overhang. Compact stalls should be 7.5 ft. by 12.5 ft. with a 2.5 ft. overhang. The use of wheelstops is discouraged.
4. Where portions of the existing parking lot are reconfigured, parking lot shade trees shall be provided to meet current parking lot shading requirements (one tree per 8 stalls, 50% coverage within 10 years). Parking lot shade trees shall be located no closer than fifteen (15') feet from parking lot light fixtures.

5. Prior to occupancy of any structure, striping of parking stalls, aisles and driveways shall conform to the provisions of MMC Section 10-5.105, Parking Lot Design Standards.
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.
7. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director.
8. 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.
9. The design of light fixtures and their structural supports should be architecturally compatible with the main structures on the site. Light fixtures should be architecturally integrated into the design of a structure to the satisfaction of the Director of Community and Economic Development.
10. Reuse and re-facing of the existing signs at the church may be allowed and any additional or new signage shall comply with the sign requirements of the P-O Zone.
11. The use of individual "channel" lettered signs are encouraged; while "canister" type signs are discouraged.
12. Prior to issuance of a sign permit, individual sign plans for the project shall be submitted for separate review and approval prior to installation.
13. 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.
14. The improvement plans shall include all landscaping, parking, and any and all easements required for the establishment of new utilities and the preservation of existing utilities.
15. There is an existing 8 - inch ACP water main in Saint Paul's Way. The site is served by an existing 2- inch water service in a 10 - foot easement through the adjacent property to the south.

16. There is an existing 6 - inch sewer main in Saint Paul's Way. The site is served by an existing 4 - inch sewer service in a 10 - foot easement through the adjacent property to the south.
17. The On-site storm water runoff from this development shall be kept on site per current City of Modesto Storm Drainage Design Standard Specifications.
18. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit improvement plans conforming to design requirements of the most current edition of the City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.
19. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to integrate Low Impact Development (LID) principles into the project design. The plan shall retain, treat, and infiltrate the first 0.5" of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.
20. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, bioretention, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5" of stormwater run-off from site.
21. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot and floor of enclosures shall be graded to drain into adjacent landscape areas.
22. Prior to the issuance of a Grading, Demolition, 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.
23. Prior to the issuance of a Grading, Demolition, 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 WPCP or Local SWPPP shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction or demolition 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.
24. If the Construction or Demolition Activity will result in land disturbance of one acre or greater, project will require the following:
 - a. 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 (SWRCB) General Permit for Stormwater Discharges Associated with Construction and Land

Disturbance Activities Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ.

- b. If Construction General Permit coverage is required, prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall provide Waste Discharge Identification (WDID) number for project, and one paper copy of project Stormwater Pollution Prevention Plan (SWPPP) instead of WPCP or Local SWPPP to Land Development Engineering, Stormwater.
25. Fire hydrant spacing and distribution for this project is 500-feet O.C. Onsite fire hydrants are required. Please show existing and proposed fire hydrant locations.
26. Building shall be equipped with an automatic fire sprinkler system installed accordance with NFPA 13.
27. A fire hydrant will be required within 90-feet of the Fire Department Connection (FDC) to fire sprinklers.
28. A manual and automatic fire alarm system utilizing an emergency voice/alarm required by the current edition of the California Fire Code (CFC) shall be installed.
29. Applicant shall submit Landscape and Irrigation plans for review and approval by the City's Parks Planning and Development Division. L&I plans shall include existing and proposed landscape areas and be compliant with current State of California Model Water Use Ordinance, MMC requirements and City of Modesto standards at time of submittal.
30. Landscape plans shall include street trees along the Briggsmore Avenue frontage, located where feasible along the frontage as determined through the landscape plan check process.
31. Applicant shall plant vines on all walls of trash enclosure to discourage tagging.
32. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Code.
33. Storm drainage basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure.
34. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
35. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are be completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.

36. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development.
37. 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.
38. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
39. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
40. 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.
41. All conditions of City Council Resolution No. 2003-247 not in conflict with this action shall remain in full force and effect.
42. 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.

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 16, 2017, 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 16, 2017, by Board Member Selover, who moved its adoption, which motion was seconded by Board Member Rodriguez and carried by the following vote:

Ayes:	Blom, Moradian, Roddick, Rodriguez, Selover, Vohra, Morris
Noes:	None
Absent:	None
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