

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2021-03

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO  
TREEHOUSE DAYCARE TO ALLOW A CHILD DAYCARE CENTER  
ACCOMMODATING 100 CHILDREN ON A PROPERTY LOCATED AT 3337  
COFFEE ROAD

WHEREAS, an application for a Conditional Use Permit for a child daycare center accommodating 100 children on property located at 3337 Coffee Road, was filed by Alicia Tovaraz on March 3, 2021; and

WHEREAS, Section 10-9.102 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 April 22, 2021, in accordance with Executive Order N-29-20, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed conditional use is exempt from CEQA, pursuant to Section 15303 of the CEQA Guidelines, which exempts new construction or existing facilities. The proposed project is in an urbanized area and includes less than 10,000 square feet of floor area, the size is zoned to allow daycare facilities with a Conditional Use Permit, all necessary public services and facilities are available, hazardous substances including items such as cleaning materials will be present in small quantities expected for a daycare facility, and the surrounding area is not environmentally sensitive to small alterations in development; and

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 regulations allow for child daycare centers on property approved for Low-Density Residential (R-1) uses upon securing a Conditional Use Permit from the Board of Zoning Adjustment.
2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the proposed use is located in an area designated as "Mixed Use" in the City of Modesto Urban Area General Plan that provides for a range of residential and commercial uses to serve the Modesto population.
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:
  - a. The proposed child daycare center will be located on a minor arterial as designated in the General Plan.

- b. The location of the proposed child daycare center will be separated from adjacent residential uses by a 7-foot-tall concrete block wall and Coffee Road, a minor arterial street.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because hours of operation will be limited to minimize impacts from noise and traffic.
5. The proposed conditional use is exempt from CEQA, pursuant to Section 15303 of the CEQA Guidelines, which exempts new construction or existing facilities. The proposed project is in an urbanized area and includes less than 10,000 square feet of floor area, the size is zoned to allow daycare facilities with a Conditional Use Permit, all necessary public services and facilities are available, hazardous substances including items such as cleaning materials will be present in small quantities expected for a daycare facility, and the surrounding area is not environmentally sensitive to small alterations in development.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for 3337 Coffee Road be granted subject to the following conditions:

1. All aspects of the project shall comply with current City of Modesto Standards and current California Building, Electrical, Plumbing, and Energy Codes adopted by the City of Modesto.
2. All signs shall comply with the sign requirements of the R-1 Zone.
3. Any public improvements that are missing damaged or not to current City standards shall be designed and constructed per City standards in accordance with City Code (Article 7-1.701). Such improvements may include, but not be limited to curb and 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 of an Encroachment permit.
4. A 10- foot PUE shall be dedicated to the City behind the 5-foot right-of-way easement on Coffee Road frontage.
5. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by **the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.**
6. There is an existing water service connection to this parcel from the 12-inch main in Coffee Road. If a new connection or an upgrade to the existing connection is requested, applicable water connection fees shall be paid and an encroachment permit issued from the City prior to any work being done in the public right of way.

7. There is an existing sewer service connection to this parcel from the 6-inch sewer main in Coffee Road. If a new or an upgrade to any sewer service connection is requested, applicable sewer connection fees shall be paid and an encroachment permit issued from the City, prior to any work being done in the public right of way.
8. The proposed project is located in an area without City storm drain mains, therefore any storm water generated from this development shall be managed and stored on site according to the City's Standard Specifications and current low impact development standards.
9. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local Stormwater Pollution Prevention Plan (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.
10. The proposed project includes significant redevelopment (greater than 5,000 square feet on a previously developed site), is considered a Priority Project, and is subject to the following requirements:
  - a. 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.
  - b. 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 inch of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.
  - c. 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 inch of stormwater run-off from site.
  - d. 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.
  - e. 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.

11. 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, capital facility fees, building permit, and plan check fees.
12. A 7-foot-tall masonry wall shall be constructed along the westerly property line.
13. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
14. All daycare activities, including drop-off and pick-up shall be restricted to between the hours of 6:30 a.m. and 6:00 p.m., Monday through Friday. Outdoor activities shall be restricted to between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, to limit noise impacts on nearby residences.
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.
16. Applicant shall submit Landscape and Irrigation (L&I) plans for review and approval by the City's Parks Planning and Development Division. L&I plans shall meet current State of California water use ordinance requirements, Modesto Municipal Code (MMC) requirements and City of Modesto standards at time of submittal.
17. Applicant shall provide a minimum 10-foot (10') landscape setback along Coffee Road in front of the parking area and a minimum 15-foot (15') landscape setback along Coffee Road in front of the building.
18. Applicant shall provide, or protect in place, street trees along Coffee Road, and spaced thirty-five feet (35') on center maximum and located within seven feet (7') of back of sidewalk, or curb.
19. Applicant shall install parking lot shade trees per MMC requirements; one (1) shade tree for every eight (8) parking stalls and within seven feet (7') of stall. Shade trees are required for all parking stall locations proposed in the development.
20. Climbing vines shall be installed in the landscape on all trash enclosures; and masonry walls visible to the public to discourage tagging.
21. Applicant shall install a separate landscape water meter for the parcel development.

22. LID control and treatment measures shall be vegetated for erosion protection and sediment entrapment to collect/treat storm water run-off before entering the storm drain system. Storm water catchment and treatment basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure.
23. Applicant shall install bicycle parking racks as part of the project development per MMC and Green Building Code.
24. Modesto Irrigation District (MID) records indicate there is an existing sixteen (16) inch cast-in-place improvement district pipeline (ID No. 520 – High ID) that lies along the westerly property line. The pipeline must be replaced within the boundary of the project and a 10-foot (10') irrigation easement must be dedicated to MID by separate instrument.
25. Applicant must provide detailed plans of the proposed pipeline replacement. All work affecting irrigation facilities must occur during the non-irrigation season (typically November 1 to March 1) and must be completed to MID standards. Irrigation service must not be interrupted.
26. Existing overhead and underground electric facilities within or adjacent to the proposed project shall be protected, relocated, or removed as required by MID's Electric Engineering Department. Any relocations or installations shall conform to MID's Electric Service Rules. Applicant will be responsible for all MID's costs associated with the development.
27. MID's Electric Engineering Department requires that any trenching or pipe pushing maintain a 1:1 horizontal distance from any existing MID pole or pole anchor. If trenching or pipe pushing will encroach on this depth : distance ratio, the Contractor shall contact the Electric Engineering Design Department to brace any affected poles. The cost of any required pole bracing or guy anchor retensioning will be assumed by the Contractor.

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

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on April 22, 2021, by Board Member Yare, who moved its adoption, which motion was seconded by Board Member Vohra and carried by the following vote:

Ayes:	Blom, Desai, Rodriguez, Vohra, Yare, Goriel
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  
Steve Mitchell, Secretary