

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2021-11

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AMERCO REAL ESTATE COMPANY (U-HAUL) TO ALLOW A SELF-STORAGE FACILITY BUSINESS ON A PROPERTY ZONED FOR HIGHWAY COMMERCIAL (C-3) USES LOCATED AT 2012 MCHENRY AVENUE.

WHEREAS, an application for a Conditional Use Permit for a self-storage facility and truck/trailer sharing on a property zoned for Highway Commercial (C-3) uses located at 2012 McHenry Avenue, was filed by AMERCO Real Estate Company (U-HAUL) on August 18, 2021; and

WHEREAS, Section 10-9.102 of the Municipal Code authorizes the Board of Zoning Adjustment to grant Conditional Use Permits for a self-storage facility in the C-3 Zone; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on October 28, 2021, 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 the construction and location of limited numbers of new, small facilities or structures and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

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 self-storage facilities on a property approved for Highway Commercial (C-3) uses upon securing a Conditional Use Permit from the Board.
2. The proposed conditional use and the conditions under which it will operate are consistent with the General Plan because the proposed use is located in an area designated as "Commercial" in the City of Modesto Urban Area General Plan that provides for a range of 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 self-storage facility generates minimal traffic and noise. Additionally, the location of the proposed self-storage facility is separated from the adjacent residential uses by Tokay Avenue to the South of the property, and a 6-foot concrete masonry wall to the East of the property.

4. The proposed conditions of approval will ensure compatibility with the surrounding uses because the main hours of operation of the self-storage facility will minimize the impact on traffic and noise to the surrounding community.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for 2012 McHenry 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 " U-HAUL Self-Storage Facility, 2012 McHenry Avenue Healthcare Way" as amended in red and stamped approved by the Community and Economic Development Director on October 28, 2021.
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 issuance of a building permit, the developer shall demonstrate the provision of storm water handling by either new on-site facilities, or via easements and a maintenance agreement with the Property Owners Association to utilize the existing private storm drain system, to the satisfaction of the City Engineer and the Director of Community and Economic Development.
5. Any new connection to City Water and Sewer Services shall be approved by the City Engineer.
6. 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.
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 building of the development, as approved by the Community and Economic Development Director.
8. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
9. 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.

10. All aspects of the project shall comply with City of Modesto Standards and Fire Codes as required by the Fire Marshall. Submitted plans shall include but not be limited to the following:
 - a) The location of all fire hydrants within ninety feet (90') of the FDC.
 - b) The location of all fire hydrants within two hundred feet (200') of all sides of the building.
 - c) The installation of a fire sprinkler system that shall be monitored and carry a UL certificate.
 - d) The location of a fire sprinkler system shall be required, and all appropriate Modesto Standard Diagrams included.
 - e) The location of either a 1602-A or 1602-B DDCV where fire sprinkler water connects to City water facilities.
 - f) The location of any vehicle repairing/refueling locations on the property.
 - g) The address and/or suite number of all buildings on site.
11. Developer shall submit Landscape and Irrigation (L&I) plans for review and approval by the City's Parks Planning and Development (PPD) Division. L&I plans shall meet current State of California water use requirements, Modesto Municipal Code (MMC) requirements and City of Modesto standards at time of submittal.
12. Developer shall provide enhanced landscaping along the existing planter along Tokay Avenue.
13. Developer shall provide, or protect in place, street trees along Tokay Avenue and spaced thirty-five (35') on center maximum and located within seven feet (7') of back of sidewalk, or curb.
14. Developer shall include the use of anti-graffiti coating on the 6-foot-high masonry wall to the South of the property facing Tokay Avenue to prevent/deter future graffiti.
15. All signs shall comply with the sign requirements of the C-3 Zone.
16. The facility shall adhere to the provisions of the City's Noise Regulations as outlined in Title 4, Chapter 9 of the Modesto Municipal Code.
17. 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.
18. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

19. 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.
20. Project approval shall become null and void two (2) years following the effective date of approval or by October 28, 2023, unless a building permit is issued and construction is commenced, and diligently pursued toward completion.
21. 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.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on October 28, 2021, by Board Member Niskanen, who moved its adoption, which motion was seconded by Board Member Vohra, and carried by the following vote:

| | |
|----------|---|
| Ayes: | Blom, Desai, Niskanen, Rodriguez, Vohra, 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

3888513.1