

PLANNING COMMISSION  
RESOLUTION NO. 2023-17

A RESOLUTION APPROVING THE VESTING TENTATIVE MAP OF MILLER  
ADERHOLT (MID VALLEY ENGINEERING)

WHEREAS, Mid Valley Engineering Inc. has filed an application for a Vesting Tentative Subdivision Map, Miller-Aderholt, to divide two (2) parcels (totaling 4.98 acres), located within Precise Plan Area #6 (Subarea A), into nine (9) single-family residential lots, with each lot being not less than one-half (.5) acres, and accessed with a private paved and gated street, overlaid with an access drainage and utility easements; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on July 22, 2022, and was accepted for filing and deemed complete on August 19, 2022, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code; and

WHEREAS, copies of said vesting tentative map have been sent to the Modesto City School District, Modesto Irrigation District ("MID"), Pacific Gas and Electric; the Modesto Utilities Department, Fire Department, Parks Planning Division; Community and Economic Development's: Land Development and Engineering Division; and the Community Development's – Infrastructure Financing Program; and

WHEREAS, City services, including sewer and water facilities, are available; and

WHEREAS, the project area can be served by elementary schools in the Sylvan School District, Modesto Fire Station No. 7 (located at 1800 Mable Avenue), and is located in Police Beat No. 73; and

WHEREAS, a public hearing was held by the Planning Commission on June 5, 2023, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study Environmental Checklist No. C&ED 2022-22, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2014042081) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review is required.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The proposed vesting tentative subdivision map, together with the provisions for its design and improvements, is consistent with the General Plan of the City of Modesto, and the Subdivision Map Act of the State of California.

2. The discharge of waste as a result of the proposed vesting tentative subdivision map into the existing sewer system will not result in a violation of existing requirements by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California.
3. As per Sections 15162, 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the City of Modesto General Plan Master EIR (SCH No. 2014042081) and no new environmental document or findings are required by CEQA.
4. The proposed Vesting Tentative Subdivision Map is consistent with the applicable policies contained in the City's Urban Area General Plan and the Village One Specific Plan, Precise Plan Area 6, Subarea A.
5. The subdivision will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the General Plan Master EIR (SCH No. 2014042081).
6. No new or additional mitigation measures or alternatives are required.
7. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
8. The Initial Study Environmental Checklist No. C&ED 2022-22, provides the substantial evidence to support findings 3-5, noted above.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Subdivision Map of Miller-Aderholt (Village One Specific Plan) accepted for filing in the office of the Secretary of the Planning Commission on July 22, 2022, is hereby approved as submitted and subject to the following conditions:

1. The Final Map for TSM-22-003 (Miller-Aderholt) cannot be recorded unless and until the City Council approves the proposed amendment (RZN-23-002) to Section 12-03-09 of the Zoning Map to reclassify the property, located at 3431 and 3419 Millbrook Avenue from Specific Plan-Holding (SP-H) Zone to Specific Plan (SP) Zone to allow for development of a maximum of nine (9) single-family residential parcels, each being a minimum of 0.50 acres. Said approval shall be noted on the Final Map.

#### Modesto Fire

All vehicle entrance gates shall have a Knox vehicle gate switch that is sub-mastered for the Modesto Police Department. This requirement shall be stated on all relevant plans.

Parks Planning & Development Department

3. 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.
4. Applicant shall provide a minimum fifteen-foot (15') landscape setback along streets and roads.
5. Applicant shall provide a minimum five-foot (5') side landscape setback and fifteen-foot (15') back landscape setback.
6. Applicant shall provide one (1) street tree per lot, or more on corner lots spaced thirty-five (35') feet on center maximum and located within seven feet (7') of back of sidewalk, or curb.
7. Applicant shall provide street trees along streets and roads; and spaced thirty-five (35') feet on center maximum and located within seven feet (7') of back of sidewalk, or curb.
8. Applicant shall install climbing vines in the landscape on all masonry walls visible to the public to discourage tagging.
9. Applicant shall install a separate landscape water meter for ROW landscape and irrigation.
10. Applicant shall ensure that LID control and treatment measures are 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.

CD&E/Land Development Engineering

11. 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 & 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.
12. 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.
13. 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.
14. 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.

15. 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.

#### Utilities Department

16. The proposed utilities would be the responsibility of developers to fund, design, and construct per City Standards as well as adherence to all other applicable City Standards. There is no expectation the City would fund and/or construct proposed utilities unless some agreement between the City and other parties is approved.

#### Infrastructure Financing Program

17. APNs 085-064-016 AND 085-064-017 are in the future annexation area for Community Facilities District (CFD) 2004-1 Village One #2 and will be required to annex into the CFD. The cost to annex into the Village One #2 CFD requires a deposit of \$9,500. The annexation process is generally completed within 3-5 months.
18. The One-time Facilities Special Tax shall be collected prior to building permit issuance for any new construction of any residential structure on taxable property within the CFD. The annual maximum CFD taxes are attached to this memo and will be determined prior to annexation
19. Future development will be required to pay Capital Facilities Fees (CFF) at the time of building permit issuance unless property owner signs an agreement pursuant to Government Code section 66007 agreeing to pay CFF prior to issuance of certificate of occupancy. Such agreement will be recorded as a lien on the Property. The current CFF for a Single-Family Residential unit is \$16,740/dwelling.
20. The City of Modesto offers CFF, Commercial Wastewater Charge, and Water Charge deferral Programs which allows deferral of eighty percent (80%) of the CFF, Commercial Wastewater Charge, and Water Charge over a period of five (5) years with twenty percent (20%) due at the time of building permit issuance. Installment payments are paid annually and include interest on the unpaid balance based on the schedule and interest rate stipulated in the agreement between the Owner and the City of Modesto.
21. All fees quoted in Conditions 17-20 are valid through June 30, 2023. For further information on the annexation process, please contact Peter Ibrahim, Infrastructure Financing Program Supervisor at (209) 577-5353 or [pibrahim@modestogov.com](mailto:pibrahim@modestogov.com)

Modesto Irrigation District (MID)

22. Per Modesto Irrigation District's (MID) Water Operations staff, the following irrigation operations facilities lie within the proposed project area.

- (a) There is an existing thirty (30) inch private concrete pipeline that lies south through the project site, beginning at the overpour box near the north property line of APN: 085-064-015 and terminating at a control box located near the southwest property line of APN: 085-067-025.
  - i. The following parcels are served by the private irrigation facilities (APN):
    - 085-064-007, 085-064-009, 085-064-012, 085-064-015, 085-064-016, 085-064-017, 085-064-018, 085-064-019, 085-064-020, 085-064-021, 085-067-025.
  - ii. The existing privately-owned infrastructure will be affected by the proposed project; therefore, MID recommends consulting with affected landowners listed above to discuss potential improvement plans and for their review and approval.
  - iii. All privately-owned facilities that will have its alignment changed or relocated must be protected by an irrigation easement dedicated to the downstream landowner(s) that are served by the existing private infrastructure and must be shown on the subdivision map. Additionally, access easements may be required to allow MID and other landowners the ability to access, operate, and maintain its irrigation facilities.
  - iv. There may be additional existing privately owned infrastructure not recorded by MID. If it is determined that any of the existing infrastructure will be affected by the proposed project, MID recommends consulting with affected landowners to discuss potential improvement plans for review and approval.
  - v. MID will oversee the privately-owned infrastructure requirements are met; however, MID cannot make decisions on behalf the of the private landowner facilities.
  - vi. MID recommends the realigned private pipeline lie along the proposed property lines as shown on the vesting tentative parcel map.
  
- (b) There is an existing thirty-six (36) inch reinforced concrete Improvement District pipeline (No. 191 - Naegele 10) that lies west along the south portion of Sylvan Ave.
  - i. If the existing Naegele 10 pipeline is to be impacted by a proposed project, it must be replaced within the footprint of the proposed project with a reinforced concrete pipeline that meets HS20-44 pipeline strength loading requirements.
  - ii. Any MID-owned or Improvement District facility that will have its alignment changed or relocated must be protected by an irrigation easement dedicated by separate instrument to MID and must be shown on the subdivision map. Additionally, access easements may be

required to allow MID the ability to access, operate, and maintain its irrigation facilities.

23. Regarding the facilities listed in Condition 22 above, per the recommendation of MID's Water Operations staff, the City has the following recommendations and requirements:
- (a) Should the proposed project impact or otherwise alter existing infrastructure, the pipeline must be upgraded, replaced and/or relocated as required by the landowner(s) and/or MID. All costs associated with design, approval and analysis of relocation shall be at the Developer's expense.
  - (b) Pressure manholes must be installed per MID standard detail C 20 and located no more than five hundred (500) feet apart. MID's irrigation standard details can be found online at <https://www.mid.org/isc/documents/M.I.D. Standards OutsideMID.pdf>.
  - (c) Prior to development the Applicant must contact MID's Water Operations Department at (209) 526-7562 to request a Sign-Off of Irrigation Facilities form for the developed parcels.
  - (d) Draft improvement plans must be submitted to MID's Civil Engineering Department for review and approval prior to the start of any construction. The size, depth, and location of the existing irrigation facilities that lie within the project area must be located and verified in the field and shown on the proposed plans.
  - (e) All work that may impact irrigation facilities must be completed during the non-irrigation season (typically November 1st to March 1st).
  - (f) MID Water Operations staff recommends a pre-consultation meeting to discuss MID irrigation requirements.
24. High voltage is present within and adjacent to the project area. This includes 12,000 volts overhead primary, 6,900 volts underground primary, and overhead and underground secondary facilities. Use extreme caution when operating heavy equipment, using a crane, ladders, scaffolding, handheld tools, or any other type of equipment near the existing MID electric lines and cables. Assume all overhead and underground electric facilities are energized. shows the approximate location of existing MID electrical facilities within or adjacent to the project area.
25. Existing MID easements for protection of overhead and underground electrical facilities are to remain. Overhead secondary cable is protected by a minimum 20' wide easement centered on the overhead cable. Overhead primary cable is protected by a minimum 30' wide easement centered on the overhead cable. Underground secondary cable is protected by a minimum 5-foot wide easement centered on the underground cable. Underground primary cable is protected by a minimum 10-foot wide easement centered on the underground cable.
26. Any trenching or pipe pushing shall 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 MID 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. Estimates for bracing any existing poles will be supplied upon request to MID.

27. The contractor shall verify actual depth and location of all underground utilities prior to start of construction. Notify "Underground Service Alert" (USA) (Toll Free 800-227-2600) before trenching, grading, excavating, drilling, pipe pushing, tree planting, post-hole digging, etc. USA will notify all utilities to mark the location of their underground facilities.

Modesto City Schools

28. This Planned Development has not been annexed into Schools Infrastructure Financing Agency (SIFA) CFD 1994-1. Any new construction will be assessed the appropriate regular school impact fees in effect at the time.

The following conditions are mitigation measures from the Modesto Urban Area General Plan Master EIR that are applicable to the project:

**Air Quality and Greenhouse Gases:**

**AQ-100.** Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)

**AQ-103.** Effectively stabilize dust emissions using water, chemical stabilizer/suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles, which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)

**AQ-105.** Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)

**AQ-107.** When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)

**AQ-108.** Limit operations or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) (Policy VII.H.2.rr)

**AQ-109.** Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)

**AQ-110.** Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)

**AQ-113.** Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)

**AQ-114.** Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)

**AQ-115.** Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)

**AQ-116.** Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limit). (Policy VII.H.2.zz)

### **Noise and Vibration:**

**Noise-4.** Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:

- Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
- Require impact tools to be equipped with shrouds or shields;
- Require that the quietest equipment available be used; and,
- Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)

**Noise-7.** Incorporate construction practices and acoustic treatment in new residential construction to reduce typical indoor noise levels to 45 dB. Developers of residential buildings within the 65 dBA contours shown in the General Plan Master EIR shall demonstrate that interior noise has been reduced to 45 dB. Other types of development should be protected against noise intrusion at least to the levels indicated on UAGP Table VII-2. (Policy VII-G.3.e)

### **Loss of Sensitive Wildlife and Plant Habitat:**

**SWPH-13.** For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Downtown, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, an assessment of whether any potential habitat for special-status species is present within proposed development areas shall be made. No further biological study is warranted unless habitat is present or if specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources (Policy VII-E.2[a]).

**SWPH-14.** Additional measures to protect sensitive habitats may be implemented. Potential measures to be implemented may include measures listed in Table V-7-1 in the General Plan MEIR.

**Increased Demand for Storm Drainage:**

**SD-10.** Construction activities shall comply with the requirements of the City's Stormwater Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**Flooding and Water Quality:**

**FWQ-11.** Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (Policy VI.G.3)

**Generation of Hazardous Materials:**

**HM-5.** In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan would be prepared by the project applicant.

The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.

If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.

In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (Policy VI.M.3)

**HM-8.** Applicants for building permits should determine that a site containing or formerly containing residences or farm buildings / structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation should consist of, at minimum, a Phase I environmental site assessment

and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment should be reported to the City and the County's Department of Environmental Resources. The appropriate remediation should occur prior to final occupancy of the approved development. (Policy VI.M.6)

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 June 5, 2023, 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 Planning Commission that the Secretary of the Planning Commission is hereby directed to file with the Stanislaus County Clerk a Notice of Determination regard to the environmental impact of the proposed subdivision.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on June 5, 2023, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Russel, and carried by the following vote:

Ayes: Birring, Russel, Shanks, Vohra  
Noes: None  
Absent: Silva, Vazquez  
Recused: None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD  
Jessica Hill, Secretary

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