

PLANNING COMMISSION
RESOLUTION NO. 2023-20

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED WEST OF MCHENRY AVENUE AND NORTH OF STANDIFORD AVENUE, 3501 MCHENRY AVENUE. (VINTAGE PROPERTIES, LP)

WHEREAS, Vintage Properties, LP has filed an application for a Vesting Tentative Parcel Map to divide 8.95 acres located west of McHenry Avenue and north of Standiford Avenue, 3501 McHenry Avenue, into seven parcels and common area lot; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on April 4, 2023, and was accepted for filing and deemed complete on May 4, 2023, in accordance with the provisions of Section 4-4.502 of the Modesto Municipal Code; and

WHEREAS, copies of said Vesting Tentative Parcel Map have been sent to the local utility companies, the City Engineering and Transportation Department, the Fire Department, and Parks Planning Division; and

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

WHEREAS, a public hearing was held by the Planning Commission on Tuesday, June 19, 2023, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this parcel map is exempt from review under the California Environmental Quality Act (CEQA), pursuant to Section 15301, "Existing Facilities", of the CEQA Guidelines which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use; and Section 15301 explicitly includes the subdivision of existing commercial or industrial buildings where no physical changes occur which are not otherwise exempt;

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

1. The proposed vesting tentative parcel map is consistent with the General Plan of the City of Modesto.
2. The proposed vesting tentative parcel map will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity or zone in which the property is located and will not nullify the intent and purpose of the General Plan or regulations within the City of Modesto Municipal Code.
3. The discharge of waste as a result of the proposed vesting tentative parcel 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.

4. The proposed vesting tentative parcel map is exempt from CEQA, pursuant to Section 15301 of the CEQA Guidelines, which exempts division of existing multiple family or single-family residences into common-interest ownership and subdivision of existing commercial or industrial buildings where no physical changes occur which are not otherwise exempt.
5. The proposed vesting tentative parcel map complies with all applicable requirements of the Subdivision Map Act and of Title 4 of the Modesto Municipal Code regarding the subdivision of land.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located west of McHenry Avenue and north of Standiford Avenue, 3501 McHenry Avenue, accepted for filing in the office of the Secretary of the Planning Commission on June 19, 2023, be and it is hereby approved as submitted and subject to the following conditions:

1. At the time of development, 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 streetlights. All public improvement plans shall be designed by a Registered Engineer, and reviewed and approved by the City Engineer prior to issuance of an Encroachment permit. A certificate giving notice of this requirement shall be placed on the Parcel Map.
2. At the time of development, 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.
3. Prior to recordation of a Parcel Map, the applicant must demonstrate that the existing walls at contiguous property lines meet CBC Table 705.5 requirement.
4. New parcel lines shall not infringe on exit doorways from an existing building or on exit pathways to a public place from an existing building.
5. Existing fire sprinkler appliances on a parcel that serve an existing building on that parcel shall not be on a different parcel from that building after the realignment.
6. The existing ten (10) foot-wide public utility easements shall remain along the McHenry Avenue and Standiford Avenue frontage.

7. Prior to recordation of a Parcel Map, the developer shall submit for approval by the Director of the Community and Economic Development Department or designee and the City Attorney all Conditions, Covenants and Restrictions relative to the establishment of a Property Owners Association for the continued maintenance and repair of all common areas in the development. The CC&Rs shall include requirements for the Property Owners Association to be responsible for maintaining all parking areas, drives, utility and storm drainage facilities, landscaping, and irrigation systems within common areas. All CC&Rs shall be recorded prior to or concurrently with the recordation of a Parcel Map.
8. All parcels shall have an individual water meter, or an alternative plan authorized by the City Engineer or their designee, the Director of Utilities or their designee, and the Director of Finance or their designee.
9. Prior to recordation of parcel map, private utility easement(s) shall be established to ensure that all impacted parcels (new and existing) continue to have access to City sewer services after new parcels are established.
10. On-site storm drainage shall continue to be managed on-site and all parcels within the collective private properties watershed shall continue to share in the responsibility of maintaining the private storm drainage system.
11. All landscaping, fences, and walls shall be maintained, and the parcels shall be kept free of weeds, trash, and other debris.
12. 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.
13. New parcel lines shall be sufficiently distant from existing buildings to meet the requirements of California Building Code (CBC) Table 705.5.
14. Prior to recordation of the Parcel Map, each parcel shall have separate sewer and water services, or the applicant must provide written documentation of access to sewer and water services via an adjacent parcel in the form of a recorded private sewer easement as a recorded agreement or a recorded blanket sewer and water easement over the entire parcel. If a new sewer and water service connection or an upgrade to any sewer and water service connections are requested, then applicable sewer and water connection fees shall be paid and an encroachment permit shall be obtained from the City, prior to any work being done in the public right of way.

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 19, 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.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on June 19, 2023, by Birring, who moved its adoption, which motion was seconded by Vohra, and carried by the following vote:

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

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

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