

**PLANNING COMMISSION
RESOLUTION NO. 2025-13**

**A RESOLUTION APPROVING THE VESTING TENTATIVE MAP FOR
THE MARTIN PROPERTY (TIVOLI) (NRB INVESTMENTS, LLC)**

WHEREAS, by Resolution No. 2025-__ on April 7, 2025, the Planning Commission approved Area Plan No. 2 to allow development in this area of the Tivoli Specific Plan, in accordance with the requirements of the Tivoli Specific Plan (Project No. AREA-24-001); and

WHEREAS, NRB Investments, LLC has filed an application for a Vesting Tentative Subdivision Map, Martin Property, to divide 19.95 acres into 185 single-family residential lots and eleven (11) landscape lots for property located east of Oakdale Road, approximately 0.31 miles north of Sylvan Avenue, south of Mable Avenue, and west of a line projected north from Wood Sorrel Drive; and

WHEREAS, said application was made concurrently with a proposed amendment to the General Plan Land Use Diagram (File No. GPA-24-003) to amend the land use designation of 7.29 acres of the 19.95-acre site from Regional Commercial (RC) uses to Residential (R) uses; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on May 28, 2024, and was accepted for filing and deemed complete on July 12, 2024, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code; and

WHEREAS, said application was made concurrently with a proposed amendment to the Tivoli Specific Plan to amend the land use designation of the above 19.95 acres from Medium High Density Residential (MHDR) and Regional Serving Commercial (RSC), to Medium Density Residential (MDR) with associated text amendments (File No. SPA 24-002); and

WHEREAS, said application was also made concurrently with proposed Exceptions from the Tivoli Specific Plan's development and design standards for reduced setbacks and lot sizes for lots within the 19.95-acre project site in accordance with Section 9.4.1.6 of the Tivoli Specific Plan; and

WHEREAS, said application was also made concurrently with a proposal to adopt an Area Plan document for Tivoli Specific Plan Area No. 2 (File No. AREA-24-001), for the purpose of establishing land use, circulation, and infrastructure requirements for the Area, generally located east of Oakdale Road, south of Mable Avenue, north of the planned extension of Bridgewood Way, and west of a theoretical line projected north from Wood Sorrel Drive; and

WHEREAS, copies of said vesting tentative map have been sent to the Sylvan Elementary School and Modesto High School Districts, Modesto Irrigation District ("MID"), the local utility companies, Modesto City Fire Department, and the City Engineering and Transportation Department; and

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

WHEREAS, the area can be served by elementary schools in the Sylvan School District and by Fire Station No. 7 at 1800 Mable Avenue, approximately 0.45 miles distant; and

WHEREAS, an Initial Study has been prepared as required by CEQA; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, which concluded that while the project may have a potentially significant effect on the environment, the incorporation of mitigation measures would reduce the impact to a less than significant level, and a Mitigated Negative Declaration, Environmental Assessment No. EA/C&ED No. 2024-37, was prepared; and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on February 5, 2025, and concluded on March 7, 2025; and

WHEREAS, the City received public comments on the draft Initial Study/Mitigated Negative Declaration and no changes to the document were necessary as a result; and

WHEREAS, the Mitigation Monitoring Plan (MMP) for the Initial Study/Mitigated Negative Declaration has been prepared; and

WHEREAS, a public hearing was held by the Planning Commission on April 7, 2025, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

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 (as amended), 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. An Initial Study was prepared by the City of Modesto, and the Initial Study concluded that while the project may have a potentially significant effect on the environment, the incorporation of mitigation measures would reduce the impact to a less than significant level, and a Mitigated Negative Declaration, Environmental Assessment No. EA/C&ED No. 2024-37, was prepared.
4. All feasible mitigation measures set forth in the Tivoli EIR which are appropriate to the project shall be incorporated in the project.
5. The Initial Study, Environmental Assessment No. EA/C&ED 2021-32 provides the substantial evidence to support findings 3-4, noted above.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Map of Martin Property (Tivoli) accepted for filing in the office of the Secretary of the Planning Commission on May 28, 2024, be and it is hereby approved as submitted and as shown in red on the face of the map and subject to the following conditions:

1. The Vesting Tentative Subdivision Map shall not be in full effect unless and until the City Council approves the proposed General Plan Amendment (GPA-24-003), Specific Plan Amendment (SPA-24-002), and exceptions from the Tivoli Specific Plan's

development and design standards for reduced setbacks and lot sizes in accordance with Section 9.4.1.6 of the Tivoli Specific Plan.

2. Signage requires the approval of a Sign permit in compliance with Zoning Code Section 10-6.105 (Sign Permit Requirements and Procedures).
3. Prior to the recordation of a final map for any residential project involving the subdivision of land into single-family parcels, and prior to issuance of a building permit for any project, the applicant shall provide for perpetual funding to cover the full cost of the following services provided to the proposed development. Maintenance and lighting of parks, parkways, streets, roads, and open space services, and flood and storm protection services, including the operation and maintenance of storm drainage systems, as well as perpetual funding to cover the full cost of maintenance and operation of any public improvements or other tangible property owned by the City with an estimated useful life of five or more years constructed as part of the proposed development. The perpetual funding can be provided in the following manner:
 - a. Community Facilities District (CFD). Applicant shall form or annex the development into an existing City of Modesto Community Facilities District in compliance with the requirements of the Mello-Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Applicant shall be responsible for all costs associated with the CFD proceedings.
 - b. Direct Funding. Applicant shall deposit with the City an amount necessary, as reasonably determined by the City and approved by the City Council, to fund in perpetuity the full on-going cost of these obligations.
4. Prior to issuance of a Building Permit for any building, applicant shall dedicate easements to the City for the private streets.
5. Private streets within the development shall be maintained in good condition by a Homeowner's Association.
6. Capital Facilities Fees (CFF) will be due and payable at the time a certificate of occupancy is issued or a final inspection is complete for each unit, whichever comes first.
7. All aspects of the project must comply with current City of Modesto Building Code and current California Building, Electrical, Mechanical, Plumbing, Energy and Green Codes adopted by the City of Modesto. (2022 California Building Code Cycle).
8. Fire sprinklers and an adequate water supply will be required. Fire sprinkler plans will be a separate submittal made directly to the Fire Department after the issuance of building permits.
9. Applicant 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 the current State of California Model Water Efficient Landscape Ordinance (MWELo) requirements, Modesto Municipal Code (MMC) requirements and City of Modesto Standards at time of submittal.
10. Applicant shall provide a separate water meter and landscape backflow(s) for all public and privately maintained open spaces and landscaped areas.

11. Applicant shall install climbing vines on all masonry walls, in a landscape planter, visible to the general public from the streets.
12. Prior to Certificate of Occupancy of each residence, building setback areas along thoroughfare, collector, and residential streets, and along private drives, shall be landscaped with a minimum of one (1) 24" box or 1½-2" caliper tree per thirty feet (30') of linear frontage in accordance with the standards established in Section 5.4.3.4 of the Tivoli Specific Plan. As the project proposes that these streets will not be maintained by the City and will be private, the Homeowners' Association shall be responsible for the maintenance and upkeep of the aforementioned trees.
13. Oakdale Road shall be constructed at a minimum with a ten-foot (10') planter and twelve foot (12') multiuse pathway behind back of curb. The right-of-way (ROW) dedication as shown on the tentative map will remain, however the roadway configuration of Oakdale Road alignment will be reviewed during time of improvement plan submittal and plan check to the satisfaction of the City Engineer.
14. The developer shall construct a temporary asphalt ADA pathway 4' wide from the northerly boundary line to the southeast corner of the intersection of Mable and Oakdale Road. The location of the ADA pathway will be within City ROW and construction of the pathway will be accepted as part of the tract improvements and be maintained by the City of Modesto.
15. 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 drainage basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure consistent with the City's Stormwater Quality Manual. Improvement plans shall include total square feet of the landscape area in project information.
16. The hydrant shown at lot "B" and 54 shall remain out of the twenty-foot (20') emergency vehicle access.
17. Improvement plans shall demonstrate that the full volume of the 100-year, 24-hour Storm (R=2.88-inches) is fully retained within the proposed basin. The 100 year 6 day storm shall be contained within proposed development area with no allowance for offsite discharge. The stormwater basin shall be maintained by the established Homeowners Association (HOA).
18. The City reserves the right to make 'C' Drive a right-in, right-out only access point at Oakdale Road after the future Bridge Wood Way and Bridge Wood Way/Oakdale Road intersection is built.
19. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the Utility Companies and City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
20. 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 Best Management Practices (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.

21. All construction documentation shall be coordinated for consistency. All such plans shall be consistent with the approved entitlement plans on file with the Planning Division.
22. All 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.
23. At the time of issuance of a building permit, the developer shall pay all necessary fees at the established rate per the development fee schedule. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
24. Prior to Certificate of Occupancy of any structure, fences and walls shall be installed in accordance with the design standards of the Tivoli Specific Plan, Section 5.7, Community Wide Walls and Fencing Guidelines and Standards, including but not limited to the following standards:
 - a. A minimum seven (7) foot high decorative concrete masonry wall with cap treatment shall be provided along the Oakdale Road frontage in accordance with Section 5.7.1.2 of the Specific Plan. The wall shall have a two-foot horizontal offset in the wall on Lot 66 and Lot 69.
 - b. Walls and fences along the collector streets shall be as required by Section 5.7.1.3 of the Specific Plan.
25. At the Open Space/Basin and Lots 45 thru 54 at the North property line a six-foot high masonry block wall shall be installed by the developer prior to the issuance of any building permit for the development. In the area of the open space/basin portion, the 6' high masonry block wall shall be accompanied by a row of screen trees to provide an additional buffer for the existing residences to the north.
26. All landscaping, fences, and walls shall be maintained in good condition and the premises shall be kept free of weeds, trash, and other debris.
27. Prior to start of construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction as required by Director of Community and Economic Development.
28. Future home buyers and prospective residents of the Tivoli Specific Plan shall be provided disclosure that they are subject to noise, dust, odor, and other impacts from adjacent agricultural operations. Disclosure shall also be provided that a future project will improve Oakdale Road to include a solid median and will limit 'C' Drive to right-in, right-out turning motions. Such notice shall be placed on the Final Map at recordation.
29. 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.

The following conditions are new mitigation measures resulting from the Initial Study/Mitigated Negative Declaration (Environmental Assessment No. EA/C&ED No. 2024-37). Monitoring Responsibilities and Actions, Monitoring/Reporting Responsibilities, and Schedule can be found in the Mitigation Monitoring Program, attached to this Resolution as Exhibit B, and incorporated by reference.

30. Noise (EA/C&ED No. 2024-37 Mitigation Measure NOI-1): The following measures shall be incorporated into the Project on-site construction operations:
- a. Noise-generating construction activities within the Project area shall adhere to the time restrictions of the City of Modesto General Plan to the maximum extent feasible.
 - b. All noise-producing Project equipment and vehicles using internal-combustion engines shall be equipped with manufacturers-recommended mufflers and be maintained in good working condition.
 - c. All mobile or fixed noise-producing equipment used on the Project site that are regulated for noise output by a federal, state, or local agency shall comply with such regulations while in the course of Project activity.
 - d. Material stockpiles and mobile equipment staging, parking, and maintenance areas shall be located as far as practicable from the existing residences to the north.
 - e. Project area and site access road speed limits shall be established and enforced during the construction period.
 - f. In the event that unusual circumstances or emergencies prevent certain Project construction activities from complying with the Modesto requirements, then a noise control plan shall be developed to ensure that sufficient mitigation is implemented during Project construction to ensure adverse noise impacts are avoided.
 - g. Notification of construction hours and durations shall be provided to the existing residences to the north of the project site.
31. Noise (EA/C&ED No. 2024-37 Mitigation Measure NOI-2): The following measures shall be incorporated into the design:
- a. A solid noise barrier measuring 7 feet in height relative to backyard elevation should be constructed adjacent to the residences abutting Oakdale Road. The noise barrier locations are shown on Figure 2 of the Environmental Noise Assessment, available as Appendix C of Initial Study/Mitigated Negative Declaration EA/C&ED No. 2024-37.
 - b. The traffic noise barrier could take the form of masonry wall, earthen berm, or a combination of the two. Other materials may be acceptable but should be reviewed by an acoustical consultant prior to use.
 - c. All north, west, and south-facing second-floor windows of residences proposed adjacent to Oakdale Road shall have a minimum Sound Transmission Class (STC) rating of 32. Figure 2 of the Environmental Noise Assessment, available as Appendix C of Initial Study/Mitigated Negative Declaration EA/C&ED No. 2024-37, shows the residences where this mitigation measure would apply.

- d. Air conditioning shall be provided for all residences of this development to allow occupants to close doors and windows as desired for acoustic isolation.
32. Noise (EA/C&ED No. 2024-37 Mitigation Measure NOI-3): The following shall be incorporated into the design:
- a. All west, south and east-facing second-floor windows of residences proposed adjacent to the southern site boundary where commercial development would occur in the future (plus 2 lots to the east), shall have a minimum Sound Transmission Class (STC) rating of 32. Figure 2 of the Environmental Noise Assessment, available as Appendix C of Initial Study/Mitigated Negative Declaration EA/C&ED No. 2024-37, shows the residences where this mitigation measure would apply.

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

33. Air Quality (Tivoli FEIR Mitigation Measure E.1): The construction plans for each group of building permits shall incorporate the following recommendations from the District to minimize emissions during construction phases:
- a. The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented. Compliance plan shall be submitted to and approved by the Community and Economic Development Department prior to the issuance of a grading or building permit, whichever occurs first.
 - b. Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO_x and PM₁₀ control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process. The Project Developers shall incorporate available new technology in construction contracts.
 - c. The project developers shall limit traffic speed on unpaved roads to 15 miles per hour.
 - d. The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than 1 percent.
 - e. The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.
 - f. The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust. Windbreaks shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.
 - g. The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.

- h. Wind speed measuring devices shall be installed by the Project Developers prior to the issuance of grading or building permit, whichever occurs first.
 - i. The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.
 - j. The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions). Project Developer shall provide a daily street sweeping schedule prior to the issuance of grading or building permit, whichever occurs first.
 - k. The project developers shall use alternative-fuel construction equipment, where feasible. Project Developer shall provide a list of any alternative equipment prior to the issuance of grading or building permit, whichever occurs first.
 - l. The project developers shall minimize idling time (e.g., to a 10-minute maximum).
 - m. The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.
 - n. The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.
 - o. The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as Spare the Air days by the San Joaquin Valley Air Pollution Control District.
 - p. The project developers shall implement activity management to reduce cumulative short-term impacts. Activity management plan shall be submitted to and approved prior to the issuance of a grading or building permit, whichever occurs first.
34. Air Quality (Tivoli FEIR Mitigation Measure E.2a): The site design shall fulfill the following requirements to reduce emissions from motor vehicle activity:
- a. The project developers shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters. Based on other proposed improvements, the design for this project complies with this mitigation measure.
 - b. The project developers shall incorporate sidewalks and bicycle paths throughout the site and connect those facilities to any nearby pedestrian and bicycle facilities, including those located at open space areas, parks, schools, or commercial areas.
 - c. The project developers shall incorporate secure bicycle storage and parking facilities throughout the site. Based on other proposed improvements, the design for this project complies with this mitigation measure.

35. Air Quality (Tivoli FEIR Mitigation Measure E.2b): The project developers shall prepare a trip reduction plan to reduce emissions from motor vehicle activity. The plan shall be reviewed and approved by the City of Modesto prior to occupation of each element of the proposed project. To be compliant with the policies of the Urban Area General Plan, the trip reduction plan shall address how the following features would be implemented:
- a. Provision of matching services (for participants in carpools and vanpools) by employers with over 100 weekday employees or coordination with Caltrans' "Commuter Computer" program;
 - b. Employer-based dissemination of commute information;
 - c. Employer subsidies for transit passes and incorporation of transit stop facilities into site design;
 - d. A program to guarantee rideshare participants a ride home in case of emergency;
 - e. Flex-time scheduling;
 - f. Site plan design which encourages pedestrian movement between adjacent land uses;
 - g. Incentives such as preferred location of 4 percent of parking for carpools and hybrid or other clean-fuel vehicles; and
 - h. Encouraging employers to experiment with telecommuting options, where feasible.
36. Air Quality (Tivoli FEIR Mitigation Measure E.2c): The site design shall fulfill the following requirements to reduce emissions from energy consumption:
- a. The project developers shall incorporate energy efficient building design features including automated control systems for heating and air conditioning and overall energy efficiency at least 10 percent beyond the requirements of the California Energy Code (Title 24, California Code of Regulations), using features such as increased wall and ceiling insulation beyond Energy Code requirements, light colored roof materials to reflect heat, and energy efficient lighting and lighting controls. Prior to building permit issuance of each project, construction plans shall show that all energy efficient measures are included.
 - b. The project developers shall design buildings with windows and/or skylights oriented to maximize natural cooling and heating in accordance with the California Energy Commission's 2005 Building Energy Efficiency Standards.
 - c. The project developers shall incorporate approved deciduous trees to provide shade on the south and west-facing sides of buildings. Prior to building permit issuance of each project, landscape plans shall be approved.
37. Archeological and Cultural Resources (General Plan MEIR Mitigation Measure AH-21 and General Plan Policy VII.F.3[c]): Any project that involves earth-disturbing activities within previously undisturbed soils in an area determined to be archaeologically or culturally sensitive by the City of Modesto through consultation with Native American tribes or bands and a qualified archaeologist shall be required to carry out the following mitigation measures, at a minimum:

- a. If prehistoric archaeological remains are discovered during project construction (inadvertent discoveries), all work in the area of the find shall cease, and a qualified archaeologist should be retained by the project sponsor to investigate the find and make recommendations as to treatment and mitigation. In the event of the discovery of a burial, human bone, or suspected human bone all excavation or grading in the vicinity of the find should halt immediately and the area of the find shall be protected and the project applicant immediately should notify the County Coroner of the find and comply with the provisions of California Health and Safety Code Section 7050.5, including California Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor shall also retain a Native American monitor.
 - b. A qualified archaeological monitor should be present and shall have the authority to stop and redirect grading activities, in consultation with the Native Americans and their designated monitors, to evaluate the significance of any Native American archaeological resources discovered on the property.
 - c. Native American monitors from the appropriate Native American Tribes, as determined by the NAHC shall be allowed to monitor all groundbreaking activities, including all archaeological testing and data recovery excavations that are likely to affect Native American resources, as determined by a qualified archaeologist. The project proponent shall be responsible for compensating Native American monitors. If human remains are discovered, the NAHC shall assign a Most Likely Descendent (MLD).
 - d. The landowner shall agree to relinquish ownership of all Native American human remains and associated burial artifacts that are found within the project area, to the appropriate Native American MLD, as assigned by the NAHC, for proper treatment and disposition. The MLD will decide whether or not standard archaeological analysis will be allowed on human remains and associated artifacts from burials.
 - e. If paleontological resources are discovered during earth-moving activities, the construction crew shall immediately cease work in the vicinity of the find, and the City's Planning Manager shall be notified. A qualified paleontologist shall evaluate the resource and prepare a proposed mitigation plan in accordance with Society of Vertebrate Paleontology guidelines. The proposed mitigation plan may include a field survey of additional construction areas, sampling and data recovery procedures, museum storage coordination for any specimen recovered, and a report of findings. Recommendations determined by the lead agency to be necessary and feasible shall be implemented before construction activities can resume at the site where the paleontological resources were discovered.
38. Geology, Soils, and Seismicity (Tivoli FEIR Mitigation Measure J.1): In locations underlain by expansive soils and/or non-engineered fill, the designers of foundations and improvements (including sidewalks, roads, and utilities) shall consider these conditions. The design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City Building Department, shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to

withstand the forces exerted during the expected shrink swell cycles and settlements.

39. Geology, Soils, and Seismicity (Tivoli FEIR Mitigation Measure J.2): Prior to issuance of a grading permit, a site-specific grading plan shall be prepared by a licensed professional and submitted to the City Building Department for review and approval. The plan shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness.
40. Hazards (Tivoli FEIR Mitigation Measure G.2): Conduct Phase I Environmental Site Assessments prior to issuance of grading or building permit, whichever occurs first. Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA.
41. Hydrology and Water Quality (Tivoli FEIR Mitigation Measure I.1): The proponent shall prepare a SWPPP for each development project under the specific plan (or one Master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the projects disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation.
42. Hydrology and Water Quality (Tivoli FEIR Mitigation Measure I.2): Project Developers shall prepare a site drainage plan or require construction contractor to prepare plan. Implement plan. The City shall ensure that development under the proposed project meets all the requirements of the current Municipal NPDES Permit (NPDES Permit No. R5-2003-0132 as amended by Order No. R5-2002-0182) for operation-phase water quality treatment.
43. Hydrology and Water Quality (Tivoli FEIR Mitigation Measure I.3a): As a condition of approval of the final grading and drainage plans for the first project proposed in the plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Main Canal (up to 5.0 cfs), and provide this documentation to the City of Modesto Public Works Department.
44. Hydrology and Water Quality (Tivoli FEIR Mitigation Measure I.3b): The following shall be conditions of approval of the final grading and drainage plans for all projects proposed:
 - a. Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works for review and approval.
 - b. Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Department of Public Works.
 - c. Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review.

45. Hydrology and Water Quality (Tivoli FEIR Mitigation Measure I.4): The applicant shall:
- a. Design and construct the proposed on-site development so that the sheet flow flooding generated from the upstream watershed that can occur in the region will be safely passed through the proposed development. These flows shall be contained within the streets and be dispersed on the downstream side of the project site in a manner that does not concentrate or increase the flows, ensuring that the potential for increased erosion or flooding downstream is minimized.
 - b. Ensure that finished floor elevations of all residential, commercial, and industrial structures be a minimum of one foot above the elevation of 100-year sheetflood.
 - c. Contribute their fair share of the cost to design and construct the proposed northeast flood control solution. Participation by the development in the Tivoli CFD satisfies this development's fair share obligation to this mitigation measure.
46. Utilities and Services Systems (Tivoli FEIR Mitigation Measure L.1): Prior to or concurrent with development, the project sponsors and any project applicants for future development in the Tivoli Specific Plan area shall install all on-site collection system improvements which are necessary to serve the development. Prior to issuance of a building permit, the project applicants will be required to contribute toward their fair share of the required off-site collection system improvements through payment of future capacity charges, as adopted by the City or through an equivalent funding measure. In addition, prior to or concurrent with development, the project developers shall fund and install all off-site infrastructure which are necessary to serve the development. Participation by the development in the Tivoli CFD satisfies this development's fair share obligation to this mitigation measure.
47. Utilities and Services Systems (Tivoli FEIR Mitigation Measure L.2): Prior to issuance of a building permit, the project applicants will be required to contribute toward their fair share of the required wastewater treatment and disposal facilities through payment of future capacity charges, as adopted by the City, or through an equivalent funding measure. In addition, the City cannot commence tertiary treatment without a new NPDES permit from the RWQCB. The RWQCB is encouraged to issue the new NPDES permit in a manner that would allow for successful implementation of the City's proposed tertiary treatment. While the City is optimistic that an appropriate NPDES permit will eventually be issued, this action is beyond the City's jurisdiction and control and therefore the City cannot assure that the necessary treatment and disposal infrastructure will be permitted prior to development. The above fees are incorporated into the overall fee program.
48. Utilities and Services Systems (Tivoli FEIR Mitigation Measure M.2): In order to maintain adequate water pressure in the City's delivery system, it would be necessary to install two new wells that would have a combined capability to meet or exceed the project's peak-hour demand of 2,160 gallons per minute and maximum-day demand of approximately 6.57 af/day. One well must be fully developed and operational by the time of the initial project development. The second well must be provided and operational during the second phase of development or as determined by the City of Modesto. Project Developers shall be

responsible for providing/funding the wells. Wells are installed by the City of Modesto. Participation by the development in the Tivoli CFD and payment of standard fees satisfy this development's obligation to this mitigation measure.

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 April 7, 2025, 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 in regard to the environmental impact of the proposed subdivision.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on April 7, 2025, by Commissioner Arroyo, who moved its adoption, which motion was seconded by Commissioner Russell, and carried by the following vote:

Ayes: Arroyo, Black, Goriel, Hauselmann, Russell, Shanks

Noes: None

Absent: Grewal

Recused: None

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

Signed copy on file in CEDD

Jessica Hill, Secretary

EXHIBIT "A"
Vesting Tentative Subdivision Map

