

PLANNING COMMISSION
RESOLUTION NO. 2015-21

A RESOLUTION APPROVING THE VESTING TENTATIVE MAP OF KIERNAN BUSINESS PARK EAST PHASE 1 – HEALTHCARE WAY (VALLEY VENTURES, LLC)

WHEREAS, Valley Ventures, LLC has filed an application for a Vesting Tentative Subdivision Map, Kiernan Business Park East Phase 1 – Healthcare Way, to divide 2.79 acres located at the northeast corner of Dale Road and Healthcare Way into two lots; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on June 30, 2015, and was accepted for filing and deemed complete on July 30, 2015, 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 Stanislaus Union Elementary School and Modesto High School Districts, Modesto Irrigation District, the local utility companies, and the City Engineering and Transportation Department; and

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

WHEREAS, a public hearing was held by the Planning Commission on September 14, 2015, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission has considered an Initial Study, Environmental Assessment No. EA/C&ED 2015-13, which concluded that the potential environmental effects of the proposed vesting tentative subdivision map have been adequately addressed within the context of the previously-certified Kiernan Business Park Specific Plan Amendment #4 Program EIR (SCH No. 2007062071), and that, pursuant to Section 15162 and 15164 of the CEQA Guidelines, 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 is consistent with the General Plan and the Kiernan Business Park Specific Plan, because the proposed lot configuration and street improvements are consistent with the adopted Specific Plan.
2. The proposed vesting tentative parcel map complies with all of the requirements of the Subdivision Map Act and of Title 4 of the Modesto Municipal Code regarding the subdivision of land.
3. 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.

4. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.
5. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.
6. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment #4 EIR was adopted which shows any of the following:
 - a. one or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment #4 EIR, or
 - b. significant effects which were previously examined will be substantially more severe than previously shown, or
 - c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
 - d. mitigation measures or alternatives which are considerably different from those analyzed in the Kiernan Business Park Specific Plan Amendment #4 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
7. The Written Checklist, Environmental Assessment No. EA/C&ED No. 2015-13, provides the substantial evidence to support findings 1-3, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Map of Kiernan Business Park East Phase 1 – Healthcare Way accepted for filing in the office of the Secretary of the Planning Commission on July 30, 2015, 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. Street improvements on Dale Road and Healthcare Way as shown on the tentative map, and in accordance with the Facilities Master Plan and as approved by the City Engineer on improvement plans prepared, stamped and

signed by a California licensed civil engineer, shall be secured or constructed prior to recordation of a final map.

2. Improvement plans for required improvement shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer.
3. Prior to or concurrent with map recordation, the development shall dedicate all public utility easements as required by the utility companies and the City Engineer.
4. Prior to or concurrent with map recordation, ten-foot-wide public utility easements shall be dedicated along all street frontages.
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. Prior to recordation of a final map, the developer shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the Kiernan Business Park East Specific Plan Area for the capital improvements and ongoing maintenance set forth in the Kiernan Business Park East Specific Plan Infrastructure Financing Plan to be financed by said CFD; or alternatively, in the event complete formation does not occur for any reason, developer may provide a funding mechanism for said capital improvements and ongoing maintenance to the same general standard as other similar capital improvements and on-going maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld.
7. The property owner and developer shall, at their sole expense, defend, with counsel selected by the City, 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.

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 September 14, 2015, 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 September 14, 2015, by Rosa Escutia-Braaton, who moved its adoption, which motion was seconded by Carmen Morad, and carried by the following vote:

Ayes:	Carter, Escutia-Braaton, Lucas, Morad, Smith, Tyler
Noes:	None
Absent:	Grewal
Recused:	None

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary