

PLANNING COMMISSION
RESOLUTION NO. 2016-01

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED AT 3225 YOSEMITE BOULEVARD/CA-132 (ELCAN & ASSOCIATES, INC.)

WHEREAS, Elcan & Associates Inc. has filed an application for a Vesting Tentative Parcel Map to divide 3.6 acres located at 3225 Yosemite Boulevard/CA-132 into two parcels; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on August 18, 2015, and was accepted for filing and deemed complete on November 23, 2015, 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 Empire 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 February 1, 2016, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

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

1. The vesting tentative parcel map to divide the 3.6-acre property into two parcels is consistent with the General Plan of the City of Modesto and the Subdivision Map Act of the State of California.
2. 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.
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. An Initial Study, Environmental Assessment No. EA/C&ED 2015-20, was prepared by the City of Modesto that analyzed the proposed project and determined that, on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment, and that a Negative Declaration be adopted.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located at 3225 Yosemite Boulevard/CA-132 accepted for filing in the office of the Secretary of the Planning Commission on November 23,

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. Improvements, including but not limited to a new driveway entrance to the site from the intersection of South Mariposa Road and Yosemite Boulevard and all requisite signal improvements thereof, shall be constructed in accordance to City Standards and to the satisfaction of the City Engineer prior to the first Certificate of Occupancy for development of any parcel created by the Parcel Map. A certificate giving notice of this requirement shall be placed on the Parcel Map.
2. Improvement plans shall include a pedestrian/bicycle connection from Mariposa Road to Yosemite Boulevard. Said improvement plans shall include permanent bollards to restrict vehicle access but allow pedestrian and bicycle access, decorative paving and landscaping, walkway striping across the parking area, and pedestrian-level lighting. Improvement plans for the pedestrian connection shall be submitted to the Director of Community and Economic Development or designee for review and approval prior to the first Certificate of Occupancy for any parcel created by the Parcel Map.
3. All improvement plans shall be prepared, stamped and signed by a California licensed civil engineer.
4. Prior to or concurrent with parcel map recordation, ten-foot-wide public utility easements shall be dedicated along the Yosemite Boulevard frontage.
5. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utilities and the City Engineer or designee. Easements for utilities, irrigation and electrical lines to remain shall be reserved as required.
6. Prior to map recordation, the developer shall execute a Reciprocal Access and Maintenance Agreement, which shall provide for reciprocal vehicular and pedestrian access and vehicular parking as well as the ongoing maintenance of the Yosemite Boulevard parking lot entrance between both parcels of the parcel map, to the satisfaction of the Community and Economic Development Director and in a form provided by and approved by the City Attorney.
7. Prior to map recordation, the developer shall record an access agreement for on-site traffic circulation to access the property to the west, APN 033-080-063, as shown on the vesting tentative parcel map, to the satisfaction of the Director of Community and Economic Development and in a form provided and approved by the City Attorney.
8. 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, with Counsel selected by the City 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 February 2, 2016, 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 February 1, 2016, by Steve Carter, who moved its adoption, which motion was seconded by Amin Vohra, and carried by the following vote:

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

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

Original, signed copy on file in CEDD
Patrick Kelly, Secretary