

PLANNING COMMISSION
RESOLUTION NO. 2017-11

A RESOLUTION APPROVING THE VESTING TENTATIVE SUBDIVISION
MAP OF THE TRAILS AT FALLING LEAF RE-SUBDIVISION (NEW FH, LLC)

WHEREAS, the City Council by Ordinance No. 3308-C.S., effective on January 13, 2005, approved Precise Plan No. 23 to allow development in this area of the Village One Specific Plan, in accordance with the requirements of the Village One Specific Plan; and

WHEREAS, the 50.70-acre Falling Leaf Subdivision, comprised of a total of 314 single-family residential lots, 12 landscape/bike trail lots, 14 alley lots, 2 park lots and 1 storm drain lot was recorded on January 19, 2006 in Volume 42 of Maps, at Page 88, Stanislaus County Records; and

WHEREAS, NewFH, LLC has filed an application for a Vesting Tentative Subdivision Map, The Trails at Falling Leaf Re-Subdivision, to divide a 5.72 acre portion of the Falling Leaf Subdivision Map comprised of 57 alley-accessed single-family residential lots and 11 alley lots into 59 street-accessed single-family residential lots, properties located west of Claus Road and north of Floyd Avenue; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on January 24, 2017, and was accepted for filing and deemed complete on February 20, 2017, 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 Sylvan 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, the area can be served by elementary schools in the Sylvan School District and by Fire Station No. 9 at 4025 Fara Biundo Drive, 1-mile distant; and

WHEREAS, a public hearing was held by the Planning Commission on May 1, 2017, 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 Assessment No. EA/C&ED 2017-10, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2007072023) 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, the Village One Specific Plan, 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. The subsequent project 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 Master EIR.
4. No new or additional mitigation measures or alternatives are required.
5. The subsequent project is within the scope of the project covered by the Master EIR.
6. 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.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Map of The Trails at Falling Leaf Re-Subdivision, accepted for filing in the office of the Secretary of the Planning Commission on February 20, 2017, 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 Trails at Falling Leaf Re-subdivision Final Map cannot be recorded unless and until the City Council approves the proposed amendment to Precise Plan No. 23 to allow for the reconfiguration of single-family residential lots as proposed by the vesting tentative subdivision map. Said approval shall be noted on the Final Map.
2. Prior or concurrent to recordation, the Final Map shall clearly demonstrate the following:
 - a. Identification of the reconfiguration as a Re-subdivision of Lots 1 through 10 of Block 11392, Lots 4 through 26 of Block 11393 and 17 through 40 of Block 11394 of the Falling Leaf Subdivision Map, **Volume 42 of Maps at Page 88, all being within a portion of the NE ¼ of Section 13, Township 3 South, Range 9 East, MDM, City of Modesto and County of Stanislaus;**
 - b. Reestablishment of all public utility easements and planting easements as required by the utility companies and the City Engineer;
 - c. The dedication of Lot Y of the Falling Leaf Subdivision Map as a public street (portion of Hawaiian Petrel Avenue), with demonstration that the existing improvements, including but not limited to curb, gutter, sidewalk and curb returns, meets City Standards to the satisfaction of the City Engineer. If it is found that the above do not meet current

Standards, such improvements shall be installed or secured, as approved by the City Engineer, prior to recordation of the Final Map.

3. The project will require an unspecified number of water and sewer laterals to be relocated. To properly abandon and relocate these services, improvement plans shall be provided to City staff that identifies laterals to be abandoned, established and/or relocated, for review and approval by the City Engineer prior to recordation of a Final Map. Such plans shall demonstrate conformance to all applicable City Standards for the placement of laterals, including a 0.1' overlay as required by City Standard 3.02.C, Pavement Design. Such improvement plans shall also address the relocation and/or establishment of electrical, cable television, telephone land-line and gas utility lines, to the satisfaction of the utility companies and the City Engineer.
4. Any public improvements that are missing damaged or not to current City standards shall be designed per City standards in accordance with City Code (Article 7-1.701), standards and specifications. 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.
5. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the Public Works Director or designee. All improvements shall be constructed in accordance with the approved plans.
6. Ten-foot-wide public utility easements and planting easements located within the ten-foot-wide public utility easements shall be dedicated along all street frontages as required by the Public Works Director or designee.
7. A Home Owners Association exists for the lots of the Falling Leaf Subdivision for the maintenance of existing amenities such as the storm water facilities, open space and playgrounds. The new lots to be established as a result of the re-subdivision of the Falling Leaf Subdivision shall be required to be included into the HOA. Said requirement shall be noted on the Trails at Falling Leaf Re-subdivision Final Map and shall be declared via statement on all deeds for the new lots of the re-subdivision.
8. Applicant shall include the maintenance of the three shared driveways for Lots 31 through 37 in the HOA agreement.
9. A note shall be placed on the final map disclosing that all lots adjacent to Claus Road will be located next to the future expressway and lineal recreational trail.
10. Prior to Certificate of Occupancy, the three shared driveways between Lots 31 through 37 of the tentative map shall be constructed with concrete including a band of stamped concrete or pavers at each area where the

driveways intersect a public street. The drainage for the shared driveways shall be approved by the City Engineer or designee.

11. Prior to Certificate of Occupancy, all garage side doors in Lots 31 through 37 shall have sufficient width for garbage totes.
12. Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988.
13. In accordance to Precise Plan No. 23, all deeds for lots sold in this subdivision shall contain the following statement:

"This lot is located near existing agricultural operations. Residents may be subjected to customary and accepted farming practices that produce noise, dust, smoke and other impacts. The grantee accepts the potential impacts of customary farming practices, which may include the application and use of various, chemicals through spraying, spreading or other customary means in accordance with applicable State and Federal regulations regarding such applications. The grantee also acknowledges the need to avoid activities that conflict with nearby farm uses."
14. 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.
15. 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.
16. 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.
17. 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.
18. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board (SWRCB) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) General

Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ.

19. The Construction General Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. The SWPPP shall include a description of all erosion, sediment, and pollution control 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. Prior to issuance of a Grading, Demolition, or Building Permit, provide one paper copy of SWPPP to Land Development Engineering, Stormwater.
20. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy codes & Green Standards as adopted by the City of Modesto.
21. Site to comply with all associated site related handicap accessible provisions.
22. The project shall be subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
23. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
24. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
25. Except as amended herein, or by reference, all development shall be in accordance with the Village One Specific Plan and Precise Plan No. 23, as amended.
26. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
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. 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 recommended mitigation measures from the City of Modesto General Plan Master EIR to be applied to the project:

29. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. [GP MEIR Policy AQ-42]
30. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. [GP MEIR Policy AQ-43]
31. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking. [GP MEIR Policy AQ-44]
32. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained. [GP MEIR Policy AQ-46]
33. All operations shall limit 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.) [GP MEIR Policy AQ-47]
34. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. [GP MEIR Policy AQ-48]
35. Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. [GP MEIR Policy AQ-49]
36. Any site with 150 or more vehicle trips per day shall prevent carryout and track out. [GP MEIR Policy AQ-50]
37. The project shall comply with the City's noise ordinance. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields. Equipment that is quieter than

standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected. [GP MEIR Policy N-3]

38. SWPH-13, Table V-7-1(j): Implementation of formal CDFG guidelines to avoid and minimize impacts to Burrowing Owls:

In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls shall be completed prior to the start of construction. Burrowing owl habitat on the project site and within a 500-foot (150 m) buffer zone shall be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat shall be mapped at an appropriate scale, and the following mitigation measures should be implemented:

- a. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, shall be completed no more than 30 days prior to construction within suitable habitat.
- b. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.
- c. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.
- d. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.

If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging habitat and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement, the project applicant shall secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would:

- e. Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands;

- f. Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG;
- g. Establish an endowment for the long-term management of the HM lands; and
- h. Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement.

39. 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. (UAGP Policy V.E.3[h])

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 May 1, 2017, 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 May 1, 2017, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Lucas, and carried by the following vote:

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

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

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

