

PLANNING COMMISSION
RESOLUTION NO. 2017-18

A RESOLUTION APPROVING THE TENTATIVE MAP OF 1192 NORWEGIAN AVENUE, FOR A 16-UNIT AIRSPACE CONDOMINIUM FOR SENIOR HOUSING, LOCATED AT 1192 NORWEGIAN AVENUE, SUBMITTED BY HARLESS PROPERTIES, INC.

WHEREAS, Harless Properties Inc. has filed an application for a Tentative Subdivision Map for Condominium Purposes, for the development of 16 senior assisted and independent living residential units and seven common space areas on 1.1 acres located at 1192 Norwegian Avenue; and

WHEREAS, said Tentative Map was received in the office of the Secretary of the Planning Commission on January 20, 2017, and was accepted for filing and deemed complete on February 17, 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 Sylan 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 Sylan School District and by Fire Station No. 5 at 200 W. Briggsmore Avenue, 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, to address concerns raised at the May 1, 2017 hearing regarding noise and activities at the adjacent church, the Planning Commission requested that the applicant incorporate noise mitigation measures to the project; and

WHEREAS, a public hearing was held by the Planning Commission on June 19, 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 2017-09, 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, 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.
7. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

BE IT FURTHER RESOLVED by the Planning Commission that the Tentative Map for Condominium Purposes of 1192 Norwegian Avenue, accepted for filing in the office of the Secretary of the Planning Commission on January 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 Final Map shall not be recorded unless and until the City Council approves the rezoning of the property from its current Planned Development Zone designation, P-D(237) to Planned Development Zone P-D(602) allowing for senior and independent living housing. Said rezoning shall be noted on the Final Map.
2. Prior to the sale of a residential condominium unit, a Final Map shall be recorded.
3. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer. The improvement plans shall include all landscaping, parking and common areas, on-site storm water management, provision of required fire hydrants and any and all easements required for the establishment of new utilities and the preservation of existing utilities.
4. Prior to or concurrent with map recordation, all 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 and 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. 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.
6. A 10-foot Public Utility Easement along the Norwegian Avenue frontage shall be dedicated by the Final Map and shall be landscaped.
7. Prior to Final Map recordation, the developer shall submit to the Director of the Community and Economic Development Department or designee the articles of incorporation by the Property Owners Association and the Covenants, Conditions and Restrictions (CC&Rs) for review by the City Attorney's office. The CC&Rs shall include requirements for the property owner's association to be responsible for maintaining interior and exterior common areas including the parking lot, storage building, any entry gates, storm drainage facilities, and landscaping and irrigation systems within common areas and parkways.
8. The abovementioned articles of incorporation and CC&Rs shall also clearly demonstrate that the storage buildings shall be for the use of the development's residents and management staff only, and shall not be made available for use by the general public.
9. Prior to the issuance of a building permit, plans for the residential units shall incorporate construction techniques to achieve an interior noise limit of 45 decibels or less, to the satisfaction of the Chief Building Official.
10. Prior to occupancy of any structure, fences and/or walls shall be constructed as follows, to the satisfaction to the Director of Community and Economic Development:
 - a. An eight-foot-high decorative masonry wall with cap treatment along the west and south property lines.
 - b. A seven-foot high decorative wrought-iron fence along the property's Norwegian Avenue frontage, fifteen feet back from the northern property line.
 - c. The decorative masonry wall shall be treated with an anti-graffiti coating along the west and south exterior facades.
11. 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.

12. This property is served by an existing service from an 8-in water main in Norwegian Avenue. The project shall utilize existing water service laterals for the new buildings.
13. This property conveys its wastewater to the City's existing 8-in main located in Norwegian Avenue. The project shall utilize existing sewer service laterals to service the new buildings.
14. This area of the City does not have a positive storm drainage system. The project shall manage storm water impacts on site per current City Standards and its amendments.
15. 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.
16. 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.
17. 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.
18. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot and floor of enclosures shall be graded to drain into adjacent landscape areas.
19. 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.
20. 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.
21. 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.

22. All aspects of this project to comply with current City of Modesto Standards and also current California Building, Electrical, Mechanical, Plumbing, Energy codes adopted by the City of Modesto.
23. Developer shall provide designated parking for any combination of low-emitting, fuel-efficient and carpool/van pool vehicles as required by the Green Building Standards Code.
24. Developer shall provide bicycle parking as required by the California Green Building Standards Code.
25. Fire hydrant spacing and distribution for this project is 500-feet O.C. Improvement plans shall demonstrate the provision of onsite fire hydrants as required.
26. Buildings shall be equipped with automatic fire sprinkler systems installed in accordance with NFPA 13 or 13R. Electronic monitoring of automatic fire sprinkler may be required if a separate sprinkler water supply or a separate shutoff valve from the domestic supply is provided.
27. Improvement plans shall demonstrate the provision of required fire hydrants within 90-feet of the Fire Department Connection (FDC) to fire sprinklers.
28. Plans for any electronically controlled vehicle access gates shall be submitted to an approved by the Fire Marshall prior to installation.
29. Where roadways are less than 28-feet in width, no parking shall be allowed within the aisle-way. When parking is prohibited or restricted, approved signs or curb markings complying with Modesto Standard Specifications for fire lanes shall be provided and maintained.
30. Prior to issuance of a building permit, applicant shall submit Landscape and Irrigation plans for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current State of California water use requirements, MMC requirements and City of Modesto standards at time of submittal.
31. Landscape and Irrigation Plans shall demonstrate a minimum of 15' landscaped setback from Norwegian Avenue planted with street trees that shall be equally spaced at a maximum of 35' on center. Provide 3ft. high screen landscaping between the parking lot and Norwegian Avenue to screen vehicle headlights in parking lot. The landscaping shall conform to the clear vision triangle regulation.
32. Applicant shall install parking lot shade trees per Modesto Municipal Code requirements; one (1) shade tree for every eight (8) parking spaces. There shall be a four-foot by five foot planting area for each tree planted. Parking lot shade trees shall be located no closer than fifteen (15') feet from parking

lot light fixtures. Planter areas shall have permanent borders around the perimeter to prevent cars and pedestrians from damaging plant materials.

33. Applicant shall install a separate landscape water meter.
34. Climbing vines shall be included in the landscape surrounding the trash enclosures and CMU block walls to prevent tagging.
35. All department 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.
36. 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.
37. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
38. 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.
39. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
40. 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.

The following conditions are mitigation measures from the City of Modesto General Plan Master EIR to be applied to the project:

41. 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. [GPMEIR Policy AQ-42]
42. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. [GPMEIR Policy AQ-43]

43. 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. [GPMEIR Policy AQ-44]
44. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. [GPMEIR Policy AQ-45]
45. 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. [GPMEIR Policy AQ-46]
46. 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.) [GPMEIR Policy AQ-47]
47. 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. [GPMEIR Policy AQ-48]
48. 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. [GPMEIR Policy AQ-49]
49. Any site with 150 or more vehicle trips per day shall prevent carryout and track out. [GPMEIR Policy AQ-50]
50. The City has also established a noise ordinance to control noise within the City. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." [GPMEIR Policy N-1]
51. Additionally, the noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):
 - A hammer, or any other device or implement used to pound or strike an object.
 - a. An impact wrench, or other tool or equipment powered by compressed air.
 - b. A hand-powered saw.
 - c. Any tool or piece of equipment powered by an internal-combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.

- d. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
 - e. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), piledriving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
 - f. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested. [GPMEIR Policy N-2]
52. The City of Modesto shall require construction activities to comply with the City's noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following: 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. [GPMEIR Policy N-3]
53. 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. [GPMEIR Policy SD-9 and FWQ-13]

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, 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 June 19, 2017, by Commissioner Biring, who moved its adoption, which motion was seconded by Commissioner Morad, and carried by the following vote:

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

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

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