

PLANNING COMMISSION  
RESOLUTION NO. 2017-29

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED AT 1914 AND 1940 CROWS LANDING ROAD (RON AGRESTI)

WHEREAS, Ron Agresti has filed an application for a Vesting Tentative Parcel Map to divide 18.5 acres, located at 1914 and 1940 Crows Landing Road into 13 parcels; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on September 27, 2017, and was accepted for filing and deemed complete on October 3, 2017, 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 Modesto City School District, 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 December 18, 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 2017-23, 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 imposition of Condition No.7 to require a fair-share contribution to the right-of-way acquisition and improvement of the Crows Landing Road/E. Glenn Avenue intersection serves to facilitate General Plan Policy V-B.G.h., which calls for the City's circulation system to facilitate rapid response by emergency vehicles by providing adequate road widths and corner radii.
2. Development of these parcels on Glenn Avenue, East of Crows Landing Road, will result in an increase in traffic at the Crows Landing Road/Glenn Avenue intersection and would benefit from the ultimate improvement of the intersection, therefore approval of the parcel map should be conditioned to include the fair-share participation in the acquisition of right-of-way and improvement of the Crows Landing / E. Glenn Avenue intersection to City Standards.

3. The Vesting Tentative Parcel Map to create 13 parcels is consistent with the General Plan of the City of Modesto and the Subdivision Map Act of the State of California.
4. 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.
5. 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.
6. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
7. 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.
8. No new or additional mitigation measures or alternatives are required.
9. The subsequent project is within the scope of the project covered by the Master EIR.
10. 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.
11. 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 Vesting Tentative Parcel Map of property located at 1914 and 1940 Crows Landing Road, accepted for filing in the office of the Secretary of the Planning Commission on September 27, 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. At the time of development, any public improvements that are missing, damaged or not to current City standards shall be designed and constructed 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. A certificate giving notice of this requirement shall be placed on the Parcel Map.

2. Prior to or concurrent with Parcel Map recordation, the developer shall provide for access and public utility easements as required by the City of Modesto Land Development Engineering Division.
3. Prior to or concurrent with Parcel Map recordation, the developer shall execute a reciprocal access, parking and maintenance agreement between the Parcels #1-#4 and Parcels #9-#12, which shall provide for reciprocal vehicular parking, access and maintenance between the parcels, to the satisfaction of the Director of the Community and Economic Development Department or designee and in a form provided and approved by the City Attorney.
4. Prior to or concurrent with Parcel Map recordation, the subdivider shall submit to the Director of the Community and Economic Development Department or designee the articles of incorporation of the Property Owner's 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 the proposed storm drainage facilities.
5. At the time of development, 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 the City Engineer or designee.
6. All parcels shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
7. Prior to recordation of a Parcel Map, Developer shall execute an agreement with the City to participate in the "shared costs" of the acquisition of the property located at the southeast corner of Crows Landing Road and Glenn Avenue (APN: 086-012-026). "Shared Costs" are defined as those costs incurred through a purchase or condemnation acquisition that are above and beyond the following:
  - a. Fair market value of the property to be purchased or condemned;
  - b. The cost of removing the existing building (if not included in fair market value);
  - c. The value of required right-of-way dedication (if not included in fair market value);
  - d. Cost of installing street improvements, including curb, gutter and sidewalk, to ultimate width;
  - e. Costs to relocate the traffic signal, if applicable.

The agreement shall provide that developer is responsible to pay 37.55% of "Shared Costs" up to a maximum of \$75,000.00, and shall be in a form

that is reasonably acceptable to developer and approved by the City Attorney. Developer satisfies its full obligation towards widening the aforementioned intersection by executing said agreement and paying its share of "shared costs."

8. Prior to Parcel map recordation developer must confirm existing structures are either 5 feet from the property line or fire rate structures to meet building and fire codes.
9. 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.

BE IT FURTHER RESOLVED the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that are applicable to the project:

Air Quality

10. 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.
11. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
12. 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.
13. 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.
14. 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.)
15. 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.

16. 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.
17. Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts (note, these measures are to be implemented in addition to Regulation VIII requirements):

18. Limit traffic speeds on unpaved roads to 15 mph.
19. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).

The following measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions:

20. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
21. Suspend excavation and grading activity when winds exceed 20 mph (regardless of wind speed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation).
22. Limit the area subject to excavation, grading, and other construction activity at any one time.

Generation of Noise:

23. 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.

Archaeological/Historic Mitigation (Table V-8-1(b-f) from the GPMEIR):

24. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.
25. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
26. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.
27. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.
28. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.

Storm Drainage:

29. 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.

Water Quality:

30. 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.

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 December 18, 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.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on December 18, 2017, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Birring, and carried by the following vote:

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

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

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