

PLANNING COMMISSION
RESOLUTION NO. 2018-16

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT TO SECTION 11-3-8 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL (R-1) ZONE AND MEDIUM HIGH DENSITY RESIDENTIAL (R-3) ZONE, TO PLANNED DEVELOPMENT ZONE, P-D(606) PROPERTY LOCATED WEST OF DALE ROAD, NORTH OF VINTAGE FAIRE MALL (NRB INVESTMENTS, LLC)

WHEREAS, a verified application for an amendment to Section 11-3-8 of the Zoning Map was filed by NRB Investments, LLC on September 11, 2018, to rezone from Low Density Residential (R-1) Zone and Medium High Density Residential (R-3) Zone, to Planned Development Zone, P-D(606), to allow the development of a small lot single-family residential subdivision, property located west of Dale Road and north of Vintage Faire Mall, described as follows:

R-1 to P-D

All that certain real property situate in the City of Modesto, County of Stanislaus, State of California, lying within the Northeast Quarter of Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, described as follows:

All that portion of Parcel 2 as shown on that map file in the Office of the Recorder of the County of Stanislaus on May 10, 2018 in Book 57 of Parcel Maps at Page 76, being more particularly described as follows:

Beginning at the South corner common to Parcels 2 and 3 as shown on said Parcel Map; thence South $89^{\circ}25'29''$ West along the South line of said Parcel 2, a distance of 136.00 feet; thence North $00^{\circ}19'12''$ West, a distance of 602.45 feet to a point on the North line of said Parcel 2; thence North $89^{\circ}17'47''$ East along last said North line, a distance of 161.00 feet to the Northeast corner of said Parcel 2, also being a point on the West line of said Parcel 3; thence South along the dividing line between said Parcels 2 and 3, the following six (6) courses:

1. South $00^{\circ}19'12''$ East, a distance of 451.28 feet to a point of curvature of a tangent curve, concave northeasterly and having a radius of 40.00 feet; thence
2. Southerly along the arc of said curve. Through a central angle of $35^{\circ}39'33''$, an arc distance of 24.89 feet to a point of reverse curvature, concave southwesterly and having a radius of 40.00 feet of which the radius point bears **South $54^{\circ}01'15''$ West**; thence
3. Southerly along the arc of said curve, through a central angle of $35^{\circ}39'33''$, an arc distance of 24.89 feet; thence

4. South 00°19'12" East, a distance of 40.00 feet to a point of curvature of a tangent curve, concave northwesterly and having a radius of 40.00 feet; thence
5. Southwesterly along the arc of said curve, through a central angle of 90°00'00", an arc distance of 62.83 feet; thence
6. South 00°19'12" East, a distance of 25.00 feet to the point of beginning.

Containing 2.24 acres gross, more or less.

Subject to all easements and/or rights of way of record.

R-3 to P-D

All that certain real property situate in the City of Modesto, County of Stanislaus, State of California, lying within the Northeast Quarter of Section 11, Township 3 South, Range 8 East, Mount Diablo Meridian, described as follows:

Parcel 3 as shown on that map filed in the Office of the Recorder of the County of Stanislaus on May 10, 2018 in Book 57 of Parcel Maps at Page 76.

Containing 7.18 acres gross more or less.

Subject to all easements and/or rights of way of record.

WHEREAS, a public hearing was held by the Planning Commission on December 3, 2018, 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 2018-26, 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 requested change will not be detrimental to the public health, safety, or welfare because the rezone to a Planned Development to allow for a small-lot residential subdivision would provide for development that meets City Standards for a medium density residential development.

2. The requested change will result in an orderly planned use of land because the residential subdivision will be compatible with the residential uses adjacent to the site.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the allowable uses of the Planned Development Zone, P-D(606) is consistent with the General Plan Land Use Designation of "Mixed Use" with allows for medium density residential uses..
4. 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.
5. 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.
6. No new or additional mitigation measures or alternatives are required.
7. The subsequent project is within the scope of the project covered by the Master EIR.
8. 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.
9. 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 it recommends to the Council as follows:

SECTION I

That Section 11-3-8 of the Zoning Map be amended to rezone from Low Density Residential (R-1) Zone and Medium High Density Residential (R-3) Zone to Planned Development Zone, P-D(606), the above-described property in accordance with the following conditions:

1. Prior to the issuance of a building permit, all development shall conform to the Development Plan and building elevations titled "The Trails at Vintage" stamped approved by the City Council.
2. Prior to the issuance of a building permit for any residential lot within the development plan for The Trails at Vintage, a Final Map for The Trails at Vintage subdivision shall be recorded.

3. Prior recordation of a Final Map, new street names for "Street A" and "Court A" shall be proposed and approved by both the City and the County.
4. At the time of building permit application, any future expansion to homes, via patio covers or other structural additions and/or accessory buildings, shall submit plans for administrative amendment review and approval by the Director of Community and Economic Development or designee in accordance to Modesto Municipal Code Section 10-7.108(c), and lot coverage shall not exceed that as provided by the Medium Density Residential (R-2) Zone.
5. Garages that are proposed to be sited at a minimum distance of eighteen (18) feet from the front property line shall maintain a minimum setback of twenty (20) feet from the back of sidewalk.
6. 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.
7. 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 but not be limited to the following:
 - a. Right-of-Way addition and associated improvements such as curb and gutter, ADA access ramps, fire hydrants and street lights for Landmark Circle, "Street A" and "Court A";
 - b. The 20-foot wide emergency vehicle access/pedestrian access between "Court A" and Vintage Drive;
 - c. Landscaping and irrigation plans for all street improvements, the emergency vehicle/pedestrian access and the three landscaped lots (Lots A, B and C) as shown on the tentative map;
 - d. Installation of speed humps on Vintage Drive in the vicinity of the emergency vehicle access.
8. Storm drainage calculations showing tributary area and elevations, runoff amounts, storage method and volumes, percolation and other geotechnical information, storm water pollution management, and other required information per City Standards shall be submitted to City staff for review prior to approval of the improvement plans.
9. Prior to certificate of occupancy for the first building, the proposed block wall between homes and the adjacent commercial zone shall be

constructed as an eight-foot high decorative masonry wall with cap treatment in accordance to City Standards. Where the wall is visible from the south side of Vintage Drive at the landscape lot, the planting of vines along the wall shall be incorporated into the landscape design to discourage tagging.

10. Prior to certificate of occupancy for the first building, a six-foot high decorative masonry wall with cap treatment shall be installed along the residential property lines adjacent to Landscape Lot B as shown on the Development Plan, with climbing vines to discourage tagging.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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.

17. Speed humps shall be designed in accordance to City Standards to accommodate the travel of fire department apparatus without impact to emergency response times.
18. Public or street hydrants for residential areas are required at the designated distribution and spacing of 500' on center.
19. Fire hydrants and apparatus access roads must be installed and in working order for use prior to the start of building construction.
20. Proposed development designs shall comply with building codes adopted by the City of Modesto at time of building permit application, and be "wet" stamped by engineer.
21. In advance of house designs, design roof areas of the proposed Single-Family Dwellings to comply with mandated "Solar Ready" roof areas dedicated to solar panel installations. Refer to current requirements, 2016 Title 24 Residential Building Energy Efficiency Standards, Section 110.10 for further information.
22. Applicant shall submit Landscape and Irrigation plans for review and approval by the City's Parks 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.
23. Applicant shall provide a minimum ten foot (10') landscape setback along Vintage Drive at Landscape Lots A and B and at Lot C along Landmark Circle and "Street A".
24. Applicant shall provide street trees along Vintage Drive. Tree shall be spaced thirty five (35') feet on center and located within seven feet (7') of the sidewalk or curb.
25. Applicant shall provide landscape and irrigation for Lots A, B, and C as well as parkway on south side of Vintage Drive.
26. LID control and treatment measures shall be vegetated for erosion protection and sediment entrapment to collect/treat storm water run-off before entering the storm drain system. Storm drainage basins shall be appropriately landscaped and irrigated to address the specific type of storm water control measure.
27. The project shall be subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
28. 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.
29. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

30. 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.
31. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
32. 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.
33. 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.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that shall be applied to the project:

34. 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.
35. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
36. 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.
37. 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.
38. 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.)

39. 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.
40. 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.
41. 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):

42. Limit traffic speeds on unpaved roads to 15 mph; and
43. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).
44. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
45. Install wind breaks at windward side(s) of construction areas.
46. Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.
47. Limit the area subject to excavation, grading and other construction activity at any one time.
48. 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.
49. 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.
50. 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.

- 51. 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.
- 52. 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.
- 53. 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.
- 54. 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.

SECTION II

BE IT FURTHER RESOLVED that the following uses shall be authorized in said Planned Development Zone as shown on the development plan:

- 1. Small-Lot Single Family Residential Subdivision with uses as allowed in the Medium Density Residential (R-2) Zone.

SECTION III

IT IS FURTHER RECOMMENDED that the entire construction program be accomplished in one phase, construction to begin on or before December 3, 2020, and completion to be not later than December 3, 2022.

SECTION IV

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that they adopt a resolution certifying that the rezoning is within the scope of the General Plan Master EIR.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on December 3, 2018, by Commissioner Pollard, who moved its adoption, which motion was seconded by Commissioner Lucas and carried by the following vote:

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

Recused: None

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

Steve Mitchell, Acting Secretary