

PLANNING COMMISSION
RESOLUTION NO. 2019-20

A RESOLUTION APPROVING THE WOODGLEN TENTATIVE SUBDIVISION
MAP

WHEREAS, the City Council by Resolution 2013-261 on July 9, 2013, approved the Woodglen Specific Plan, to allow for single-family and multi-family residential development on properties located north of Pelandale Avenue, east of Carver Road, south of Bangs Avenue, and west of Tully Road; and

WHEREAS, Fitzpatrick Land Development LLC has filed an application for a Tentative Subdivision Map, Woodglen, to divide 80.8 acres located within the Woodglen Specific Plan area, north of Pelandale Avenue, east of Carver Road, south of Bangs Avenue, and west of Tully Road into 367 single-family residential lots, one multi-family residential lot, two open space/storm basin lots, one park lot and 10 landscape lots; and

WHEREAS, said Tentative Map was received in the office of the Secretary of the Planning Commission on August 3, 2018, and was accepted for filing and deemed complete on May 3, 2019, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code; and

WHEREAS, copies of said tentative map have been sent to the Stanislaus 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 Stanislaus Union School District and by Fire Station No. 11 at 4225 Carver Road, adjacent to the site at the southwest corner of Pelandale and Carver Road; and

WHEREAS, a public hearing was held by the Planning Commission on June 3, 2019, 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 2019-20, which concluded that the potential environmental effects of the proposed subdivision have been adequately addressed within the context of the previously-adopted Woodglen Focused EIR (SCH No. 2007042087) and that pursuant to Section 15182 of the CEQA Guidelines, 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 tentative subdivision map, together with the provisions for its design and improvements, is consistent with the Woodglen Specific Plan and the General Plan of the City of Modesto, the Subdivision Map Act of the State of California and the City's Subdivision Ordinance.

2. The discharge of waste as a result of the proposed 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. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Woodglen Focused EIR (SCH 2007042087) are required.
4. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kiernan Business Park Specific Plan Amendment #4 EIR are required.
5. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Woodglen FEIR was adopted which shows any of the following:
 - a. one or more significant effects which is not discussed in the Woodglen FEIR, or
 - b. significant effects which were previously examined will be substantially more severe than previously shown, or
 - c. previously infeasible mitigation measures or alternatives are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative, or
 - d. mitigation measures or alternatives which are considerably different from those analyzed in the Woodglen FEIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
6. The Initial Study, Environmental Assessment No, EA/C&ED 2019-20, provides substantial evidence to support findings 3-5 above.

BE IT FURTHER RESOLVED by the Planning Commission that the Woodglen Tentative Subdivision Map, accepted for filing in the office of the Secretary of the Planning Commission on August 3, 2018, 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. Prior to recordation of a Final Map, new street names for the parkway and streets "1" through "13" shall be proposed and approved by both the City and the County.
2. Prior to recordation of a Final Map, 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. Extension of the 10-inch water main in Tully Road to Bangs Avenue with connection to the Bangs Avenue 24-inch trunk line.
 - b. Sewer line sizing and connection points to existing City facilities.
 - c. Storm drain basin and storm line sizing of adequate size to serve the project.
 - d. Widening of the segment of Tully Road from Bangs Avenue to Pelandale Avenue to provide at least two southbound lanes.
 - e. Installation of fire hydrants at 300-foot intervals along all streets in this subdivision.
3. Prior to issuance of each building permit for a dwelling unit, the developer shall provide for at least 1:1 agricultural land mitigation in accordance to the Local Agency Formation Commission (LAFCO) policies as amended, and as supplemented in the Plan for Agricultural Preservation for the Woodglen Specific Plan.
4. Prior to recordation of a Final Map, the developer shall conduct a biological assessment by a qualified biologist to determine whether any sensitive natural communities or species are present within the project area. The assessment shall include consultation with the US Fish and Wildlife Service and Department of Fish and Wildlife, and recommendations of the study shall be made conditions of approval for the project prior to issuance of a building or grading permit, whichever happens first. Alternatively, prior to recordation of a Final Map, the project shall comply with Table V-7-1 of the City's General Plan Master EIR, Policies for Sensitive Biological Habitats, with such policies implemented prior to the issuance of a grading or building permit, whichever happens first.
5. Prior to recordation of a Final Map, the developer shall take all actions to secure and establish a new City Mello-Roos Community Facilities District (CFD) for the installation and ongoing maintenance of items and/or facilities including but not limited to the following:
 - a. The Lot B and Lot C Open Space/Water Quality lots and storm drainage infrastructure of the subdivision;
 - b. The Lot N Park, the Tully Road and Carver Road entry landscaping and all parkway landscaping;
 - c. Landscape Lots D through M, and landscaping along the Tully Road and Bangs Avenue frontages;

- d. Provisions needed to construct future improvements including but not limited to future intersection improvements for the intersections of Tully Road and Bangs Avenue, and Carver Road and Bangs Avenue.
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. All fire hydrants and fire apparatus access roads meeting the requirement for "all weather" will need to be installed prior to combustible construction materials being brought onto the site.
8. The following streets shall have curbs painted red to designate no-parking areas for fire apparatus access, as follows:
 - a. Curbs bordering the Lot B and Lot C Open Space/Water Quality Lots;
 - b. Curbs bordering the Landscape Lots identified as Lot D, Lot I and Lot L;
 - c. Along Streets "2" and "4" where the Right-of-Way is 40-feet wide, the curb at the northerly side of the streets shall be painted red to designate them as no-parking areas for fire apparatus access.
9. No parking shall be allowed along both sides of the Tully Road and Carver Road entries and all curbs shall be painted red to designate them as no-parking areas for fire apparatus access, as shown in red on the site plan.
10. With recordation of a Final Map, the map shall demonstrate via note or building setback line that all rear-yard setbacks for lots that back up to Tully Road and Pelandale Avenue shall be fifteen feet, in accordance to the setback standards outlined in Section 10-4.108(c) of the City's Zoning Code.
11. Prior to Certificate of Occupancy of any structure, the following fences and walls shall be installed:
 - a. An eight-foot high continuous split-face decorative masonry wall with cap treatment shall be installed along Pelandale Avenue;
 - b. A seven-foot high continuous split-face decorative wall with cap treatment shall be installed along Tully Road and Carver Road, with the planting of vines along Carver Road to discourage tagging.

- c. At site entrances located along Carver Road and Tully Road, the walls shall be extended along the adjoining site access roadway to a length sufficient to shield the outdoor activity areas of residential dwellings located adjacent to the perimeter roadway. Any changes in barrier height should occur in gradual increments and the incorporation of earthen berms is recommended, where practical, to reduce potential aesthetic impacts.
 - d. A seven-foot high enhanced wood fence shall be installed along Bangs Avenue.
12. Prior to or concurrent with map recordation, all public utility easements shall be dedicated as required by the utility companies and the City Engineer.
13. Prior to or concurrent with map recordation, 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 City Engineer or designee.
14. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans.
15. Prior to recordation of a Final Map, the project developer shall provide disclosure to future residents about the potential exposure to agricultural operations in the area. Such disclosure shall be placed on the Final Map and provided with deeds for each residential lot.
16. All lighting within the Woodglen Specific Plan shall comply with the City of Modesto's Guidelines for Small-Lot Single-Family Residential Development.
17. 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.
18. 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.
19. 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.

20. 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.
21. 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.
22. 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.
23. Prior to issuance of a building or grading permit, developer 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.
24. Prior to the issuance of a building or grading permit, developer shall provide construction documents with plans, materials and park features for the "Lot N" Park for review and approval by the Parks Planning and Development Division. Design shall follow public playground safety standards and guidelines, and City of Modesto's Park Standards, and timing of installation shall be established by the CFD.
25. Developer shall install a separate landscape water meter for public Right-of-Way and park landscape and irrigation systems.
26. Proposed development designs shall comply with building codes adopted by the City of Modesto at time of building permit application.
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 landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
29. 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, capital facility fees, building permit and plan check fees.

30. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
31. Except as amended herein, or by reference, all development shall be in accordance with the Woodglen Specific Plan.
32. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
33. 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.
34. 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 Woodglen Focused Environmental Impact Report that are applicable to the project:

Air Quality

35. AQ-67. Implement measures to reduce emissions associated with energy use by residences and businesses. Potential measures to be implemented may include those shown in Section V-2 of the Draft Master EIR.
36. AQ-85. Review of new development shall be coordinated with SJVAPCD staff to ensure all projects subject to the SJVAPCD Rule 9510 (Indirect Source Review) comply fully with the rule. This rule fulfills the SJVAPCD's emission reduction commitments in the PM10 and Ozone Attainment Plans through emission reductions from the construction and use of development projects through design features and onsite measures. Rule 9510 applies to any applicant that seeks to gain a final discretionary approval for a development project, or any portion thereof, which meets certain minimum thresholds. (Policy VII.H.2.u)
37. AQ-103. Effectively stabilize dust emissions using water, chemical stabilizer / suppressant, cover with a tarp or other suitable cover or vegetative ground cover, all disturbed areas, including storage piles,

- which are not being actively utilized for construction purposes. (Policy VII.H.2.mm)
38. AQ-104. Effectively stabilize dust emissions using water or chemical stabilizer / suppressant, all onsite unpaved roads and off-site unpaved access roads. (Policy VII.H.2.nn)
 39. AQ-105. Effectively control fugitive dust emissions utilizing application of water or by presoaking all land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities. (Policy VII.H.2.oo)
 40. AQ-106. Wet all exterior surfaces of buildings that are more than six stories tall during demolition. (Policy VII.H.2.pp)
 41. AQ-107. When materials are transported off site, cover all materials, or effectively wet them to limit visible dust emissions, and maintain at least six inches of freeboard from top of container. (Policy VII.H.2.qq)
 42. AQ-108. Limit operations 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.) (Policy VII.H.2.rr)
 43. AQ-109. Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, effectively stabilize said piles for fugitive dust emissions utilizing sufficient water or chemical stabilizer / suppressant. (Policy VII.H.2.ss)
 44. AQ-110. Within urban areas, immediately remove trackout when it extends 50 or more feet from the site and at the end of each workday. (Policy VII.H.2.tt)
 45. AQ-111. Prevent carryout and trackout for any site with 150 or more vehicle trips per day. (Policy VII.H.2.uu)
 46. AQ-112. Limit traffic speeds on unpaved roads to 15 mph. (Policy VII.H.2.vv)
 47. AQ-113. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%). (Policy VII.H.2.ww)
 48. AQ-114. Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)
 49. AQ-115. Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
 50. AQ-116. Suspend excavation and grading activity when winds exceed 20 mph (regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limit). (Policy VII.H.2.zz)

51. AQ-117. Limit the area subject to excavation, grading, and other construction activity at any one time. (Policy VII.H.2.aaa)

Cultural Resources

52. AH-16: If prehistoric archaeological remains are discovered during the project construction (inadvertent discoveries), all work in the area of the find shall cease, and a qualified archaeologist shall be retained by the project sponsor to investigate the find, and make recommendations as to treatment and mitigation. In the event of the discovery of a burial, human bone or suspected human bone, all excavation or grading in the vicinity of the find shall halt immediately and the area of the find shall be protected and the project applicant immediately shall notify the County Coroner of the find and comply with the provisions of Cal. Health and Safety Code Section 7050.5, including Cal. Public Resources Code Section 5097.98, if applicable. If human remains are identified, the project sponsor will also retain a Native American monitor.

A qualified archaeological monitor will be present and will have the authority to stop and redirect grading activities, in consultation with the Native Americans and their designated monitors, to evaluate the significance of any Native American archaeological resources discovered on the property.

Native American monitors from the appropriate Native American Tribes, as determined by the Native American Heritage Commission (NAHC) shall be allowed to monitor all groundbreaking activities, including all archaeological testing and data recovery excavations that are likely to affect Native American resources, as determined by a qualified archaeologist. The project proponent will be responsible for compensating Native American monitors. If human remains are discovered, the NAHC will assign a Most Likely Descendent (MLD).

The landowner agrees to relinquish ownership of all Native American human remains and associated burial artifacts that are found within the project area, to the appropriate Native American MLD, as assigned by the NAHC, for proper treatment and disposition. The MLD will decide whether standard archaeological analysis will be allowed on human remains and associated artifacts from burials.

Hazards and Hazardous Materials

53. HM-8. Applicants for building permits should determine that a site containing or formerly containing residences or farm buildings / structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation should consist of, at minimum, a Phase I environmental site assessment and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment should be reported to the City and the County's Department of Environmental Resources. The appropriate remediation should occur prior to final occupancy of the approved development. (UAGP Policy VI.M.6)

Noise

54. Noise-3. Construction activities are to comply with Modesto Municipal Code Title 4, Chapter 9.
55. Noise-4. Implement noise-reducing construction practices as conditions of approval where substantial construction-related noise impacts would be likely to occur, such as with extended periods of pile driving, or where construction is expected to continue or where sensitive receptors would be affected by construction noise. Conditions of approval may include, but are not limited to:
 - a. Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
 - b. Require impact tools to be equipped with shrouds or shields;
 - c. Require that the quietest equipment available be used; and,
 - d. Require selection of haul routes that affect the fewest number of people. (UAGP Policy VII-G.3.b)

Transportation/Traffic

56. The project developer shall contribute its fair share toward the following improvements through payment to the project CFD and City CFF:
 - a. Roundabout at the intersection of Bangs Avenue and Carver Road.
 - b. Traffic signals and left-turn pockets on all approaches at the intersection of Bangs Avenue and Tully Road.

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 3, 2019, 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 3, 2019, by Commissioner Lucas, who moved its adoption, which motion was seconded by Commissioner Vohra, and carried by the following vote:

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

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

Original, signed copy on file in CEDD
Steve Mitchell, Secretary