

PLANNING COMMISSION
RESOLUTION NO. 2020-12

A RESOLUTION APPROVING THE METRO AT THE VILLAGE FINAL DEVELOPMENT PLAN IN THE VILLAGE ONE SPECIFIC PLAN, PRECISE PLAN AREA NO. 20 SUBAREA C, FOR 46 SMALL-LOT SINGLE –FAMILY RESIDENTIAL LOTS AND TWO LANDSCAPE LOTS ON PROPERTY LOCATED ON CHANDON DRIVE NORTH OF MONTORRA DRIVE (NRB INVESTMENTS, LLC)

WHEREAS, the City Council adopted the Village One Specific Plan, a 1,780-acre area of land adjoining the northeast portion of the City of Modesto, on October 16, 1990; and

WHEREAS, the City Council by Ordinance No. 3155, effective on February 18, 1999, approved Precise Plan No. 20 Subarea C 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, an application for the Metro at the Village Final Development Plan for 46 small-lot single-family residential lots and two landscape lots within Precise Plan No. 20 Subarea C, located on Chandon Drive north of Montorra Drive was filed by NRB Investments, LLC on June 16, 2020 in accordance with Chapter IV-C(1) of the Village One Specific Plan; and

WHEREAS, a public hearing was held by the Planning Commission on September 14, 2020, in Chambers, Tenth Street Place, 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 2020-11, which concluded that the revised development plan 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 second-story window placement on the rear elevations of Lots 21, 21, 23, 25 and 28, as presented in Sheets A1.4, A1.6 and A1.8 of the Architectural Design Submittal demonstrate that impacts on the privacy of adjacent rear yards is sufficiently minimized as provided by Section 10-4.110(b)(2) of the Modesto Municipal Code.
2. 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.

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. The Initial Study, Environmental Assessment No. EA/C&ED 2020-11, provides the substantial evidence to support findings 3-6 noted above.

BE IT FURTHER RESOLVED by the Planning Commission as follows:

That a Final Development Plan for the proposed Metro at the Village be approved subject to the following conditions:

8. The Metro at the Village Final Development Plan shall not be in full effect unless and until the City Council approves the proposed amendment to the Village One Specific Plan (SPA-20-001) and proposed amendment to Precise Plan No. 20 Subarea C (PPA-20-001), to allow small-lot single-family residential developments at a minimum density of 10 units per net acre within the Senior Housing land use designation.
9. All development shall be consistent with the approved Final Development Plan and building elevations titled "Neighborhood Plan, Metro at the Village, Modesto, CA" submitted on June 16, 2020 and revised on August 18, 2020, as approved by the Planning Commission on September 14, 2020.
10. Except as amended herein, or by reference, all development shall be in accordance with the Village One Specific Plan and Precise Plan Area No. 20 Subarea C as amended, and the Vesting Tentative Subdivision Map of the Metro at the Village (TSM-20-001), as set forth in Planning Commission Resolution No. 2020-xx, adopted on September 14, 2020.
11. 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.

12. 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.
13. Improvement plans shall demonstrate the following:
 - a. Realignment of the sidewalk along Chandon Drive with the existing position of the sidewalk at the pedestrian-only access into the adjacent shopping center, and include an ADA ramp as shown conceptually on the Final Development Plan. The developer will use commercially reasonable efforts to engage with the adjacent property owner in order to obtain written permission to remove and modify the existing walkway on the adjacent owner's property. If an agreement cannot be reached with the adjacent property owner prior to the issuance of the first Certificate of Occupancy, then the improvements shall be constructed solely within Lot B and the City of Modesto right-of-way.
 - b. Landscaping and irrigation plans for "Lot A", "Lot B" and the landscaping at the end of Chandon Drive.
 - c. As the landscaped lot and improvements at the end of Chandon Drive provide an areawide benefit, the City will evaluate options available to assist in offsetting the Developer's cost for providing this improvement. These improvements, if constructed to the satisfaction of the City Engineer, will be accepted by the City and maintained by the Village One CFD.
14. Prior to the first Certificate of Occupancy, the walkways connecting the end of Chandon Drive to the existing pedestrian access to the Village Plaza Shopping Center to the west, and the associated landscaping within the Chandon Drive right-of-way, shall be completed and passable to pedestrians.
15. Prior to the first Certificate of Occupancy, walls shall be constructed as follows:
 - d. A new 8-foot high decorative masonry wall to close off the existing 20-foot wide fire access at the west side of the development, north of the existing pedestrian-only access at Chandon Drive, shall be constructed to match. The Developer will use commercially reasonable efforts to engage with the adjacent property owner in order to obtain written permission to make the above improvements. If an agreement cannot be reached with the adjacent property owner, a "jog" in the wall will occur at the back of Lot 10 and be solely on the developer's property.
 - e. A 7-foot high decorative concrete masonry sound wall with cap treatment, designed with two-foot offsets at every other property line along Lots 11 through 19 and lot depth of 10 to 12-feet, shall be constructed along the south boundary of "Lot A" for noise

mitigation purposes per the Village Once Specific Plan.
Landscaping shall be installed and/or maintained where existing in Lot A, to match the existing landscaping condition to the east.

16. Prior to the issuance of a building permit for Lots 20, 21, 23, 25 and 28, building elevations and placement of second-story windows shall be as demonstrated on the Final Development Plan Architectural Elevations for the two-story homes on those lots, with placement of second-story bedroom egress windows at the side elevations of the homes, and second-story clerestory windows only to be utilized on the rear elevations.
17. 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.
18. 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.
19. Lots 11-19 of the tentative map back up to Floyd Avenue, a four-lane minor arterial street. Where any residence on the lots is located within the 65dBA exterior noise level contour as measured from the Floyd Avenue centerline, noise treatment to reduce the interior noise level to 45 decibels within those residences shall be verified prior to final inspection by Building Safety, as specified by Policy B-11 in Chapter 6 of the Precise Plan. Noise mitigation measures may include but not be limited to setbacks or acoustical building treatment.
20. Except as amended herein, or by reference, all development shall be in accordance with the Village One Specific Plan and Precise Plan No. 20 Subarea C, as amended, and the "Metro at the Village" Subdivision Map.
21. There is an existing 8-inch water main available for connection in Chandon Drive that terminates at the west end of the street. The existing main and water supply is adequate to serve this development. Water connection fees shall be paid and an encroachment permit obtained from the City prior to any work being done in the public right-of-way.
22. There is an existing 8-inch sewer main in Chandon Drive that terminates about 50-ft west of Montorra Drive. The existing main has capacity to serve this development. However, based on information from the as built plans, the existing terminus manhole in Chandon Drive may not be deep enough to extend service for the entire proposed neighborhood. The development may have to raise the overall grade on the north end to extend an 8-in sewer to City Standards.
23. Sewer connection fees shall be paid and an encroachment permit obtained from the City prior to any work being done in the public right-of-way.

24. The existing storm drainage system consists of an 18-in pipe in Montorra Dr. to the intersection of Chandon Dr. from which a 15-in pipe is stubbed to the vacant property. Any modification to the 15-inch main in Chandon Drive will need to be resized and submitted to the City for checking and approval prior to construction. The existing 18-in pipe conveys downstream which terminate at Central Basin. The downstream facilities have capacity to serve this proposed development.
25. 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 City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.
26. 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.
27. 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.
28. Prior to the issuance of a building permit, Applicant shall submit Landscape and Irrigation (L&I) plans for review and approval by the City's Parks Planning and Development (PPD) Division. L&I plans shall meet the current State of California Model Water Efficient Landscape Ordinance (MWELO) requirements, Modesto Municipal Code (MMC) requirements and City of Modesto standards at time of submittal.
29. Applicant shall install, protect-in-place or replace street trees every thirty-five feet on center (35-feet OC) along the Floyd Avenue and Chandon Drive frontages.
30. Applicant shall install climbing vines on all walls, in a landscape planter, facing Floyd Avenue to discourage tagging.
31. Low Impact Development (LID) control and treatment measures shall be planted with vegetation 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. Provide total square feet of the landscape area in project information.

32. The project shall be subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
33. All landscaping, fences and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
34. 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.
35. Prior to certificate of occupancy for any structure, cable television service shall be available to all residential lots.
36. Prior to start of vertical building 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. 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 to be applied to the project:

38. AQ-100. Reduce particulate emissions from construction, grading, excavation, and demolition to the maximum extent feasible in accordance with the requirements of SJVAPCD Regulation VIII. Regulation VIII was adopted to reduce the amount of particulate matter suspended in the atmosphere as a result of emissions generated from anthropogenic (man-made) fugitive dust sources. (Policy VII.H.2.jj)
39. 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)
40. 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)

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-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)
46. AQ-114. Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)
47. AQ-115. Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
48. 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)
49. 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:
 - Require construction equipment, including air compressors and pneumatic equipment to have properly maintained mufflers;
 - Require impact tools to be equipped with shrouds or shields;
 - Require that the quietest equipment available be used; and,

- Require selection of haul routes that affect the fewest number of people. (Policy VII-G.3.b)
50. Noise-7. Incorporate construction practices and acoustic treatment in new residential construction to reduce typical indoor noise levels to 45 dB. Developers of residential buildings within the 65 dBA contours shown in the General Plan Master EIR shall demonstrate that interior noise has been reduced to 45 dB. Other types of development should be protected against noise intrusion at least to the levels indicated on UAGP Table VII-2. (Policy VII-G.3.e)
 51. SD-10 and FWQ-11. Construction activities shall comply with the requirements of the City's Stormwater 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. (Policy VI.G.3)
 52. HM-5. In the event that site inspection or construction activities uncover chemical contamination, underground storage tanks, abandoned drums, or other hazardous materials or wastes at a parcel, the inspection report preparer shall so notify the City. The City shall notify the County Health Services Department. Under the direction of these agencies, a site remediation plan would be prepared by the project applicant.
 53. The plan would (1) specify measures to be taken to protect workers and the public from exposure to potential site hazards and (2) certify that the proposed remediation measures would clean up the wastes, dispose the wastes, and protect public health in accordance with federal, state, and local requirements. Permitting or work in the areas of potential hazard shall not proceed until the site remediation plan is on file with the City.
 54. If a parcel is found to be contaminated to a level that prohibits the proposed use, the potential for reduction of the hazard should be evaluated. Site remediation is theoretically capable of removing hazards to levels sufficiently low to allow any use at the site. In practice, both the technical feasibility of the remediation and its cost (financial feasibility) should be evaluated in order to determine the overall feasibility of locating a specific use on a specific site. In some cases, it may require restriction to industrial use or a use that involves complete paving and covering of the parcel.
 55. In accordance with OSHA requirements, any activity performed at a contaminated site shall be preceded by preparation of a separate site health and safety plan (prepared by the project applicant and filed with the City) for the protection of workers and the public. All reports, plans, and other documentation shall be added to the administrative record. (Policy VI.M.3)

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 September 14, 2020, 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 project.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on September 14, 2020, by Commissioner Escutia-Braaton, who moved its adoption, which motion was seconded by Commissioner Pollard and carried by the following vote:

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

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

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