

PLANNING COMMISSION  
RESOLUTION NO. 2020-21

A RESOLUTION APPROVING THE VESTING TENTATIVE SUBDIVISION  
MAP OF ICON AT THE VILLAGE (NRB INVESTMENTS, LLC)

WHEREAS, the City Council by Ordinance No. 3409-C.S., effective on May 5, 2006, approved Precise Plan No. 30 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, NRB Investments LLC has filed an application for a Vesting Tentative Subdivision Map, Icon at the Village, to divide 3.75 acres located on Sharon Drive south of Yellowhammer Lane into 24 lots; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on August 25, 2020, and was accepted for filing and deemed complete on September 22, 2020, 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 Sylvan 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 Sylvan School District and by Fire Station No. 9 at 4025 Fara Biundo Drive, 1.25 miles distant; and

WHEREAS, a public hearing was held by the Planning Commission on December 7, 2020, 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 2020-16, 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. The Initial Study, Environmental Assessment No. EA/C&ED 2020-16, provides the substantial evidence to support findings 3-6 noted above.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Map of Icon at the Village accepted for filing in the office of the Secretary of the Planning Commission on September 22, 2020, 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 Icon at the Village Final Map cannot be recorded unless and until the City Council approves the proposed amendment to Precise Plan No. 30 (PPA-20-002), to allow textual and graphic amendments to the Circulation, Water, Sanitary Sewer and Storm Water Plans of the Precise Plan. Said approval shall be noted on the Final Map.
2. Prior to or concurrent with recordation of a Final Map, the site is required to annex into the Village One No. 2 Community Facilities District (CFD). One-Time Facilities Special Taxes will be due and payable at the time of building permit issuance. The parcel is also subject to the payment of Annual Facilities and Annual Maintenance Special Taxes, both levied on the Stanislaus County Tax Roll.
3. 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. Improvement plans shall include but not be limited to the following:
  - a. An eight-inch water main from the proposed Court "A" shall connect to the existing eight-inch water main in Sharon Avenue. All water system improvements/appurtenances shall be in accordance with City

of Modesto Standard Specifications, including but not limited to, vertical and horizontal alignment, and fire hydrant spacing.

- b. An eight-inch sewer main from the proposed Court "A" to connect to the existing sewer main in Sharon Avenue, installed as deep as possible per City Standards to allow for extension to the southerly portion of the Precise Plan area as needed for future development.
  - c. The storm drainage connection to the existing 24-inch storm drain in Snowy Egret Street (identified as Storm Segment 1 in the project's Utility Study) shall be a minimum 18-inch storm drain in accordance with City Standard Specifications and shall allow storm water to convey to the Central Basin. If the connection cannot be made to the catch basin, the project shall install a storm drain manhole.
4. 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.
  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, including ten-foot-wide public utility easements and planting easements located within the ten-foot-wide public utility easements dedicated along all street frontages as required by the Public Works Director or designee.
  6. 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.
  7. 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.
  8. Except as amended herein, or by reference, all development shall be in accordance with Precise Plan No. 30, as amended.
  9. 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.
  10. 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 run-off on site, and incorporate pervious landscape features into the project design wherever possible.

11. 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.
12. 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.
13. 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.
14. The project shall be subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
15. All landscaping, fences and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
16. 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.
17. Prior to certificate of occupancy for any structure, cable television service shall be available to all residential lots.
18. 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.

The following Conditions of Approval are recommended mitigation measures from the General Plan Master EIR that are applicable to the project:

19. 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)
20. 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)
21. 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)
22. 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)
23. 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)
24. 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)
25. 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)
26. 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)
27. AQ-114. Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)

28. AQ-115. Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
29. 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)
30. 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)
31. 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)
32. SWPH-12. For proposed development consistent with the adopted Urban Area General Plan on lands within the Baseline Developed Area and Downtown, exclusive of lands within the Dry Creek and Tuolumne River Comprehensive Planning Districts, an assessment of whether any potential habitat for special-status species is present within proposed development areas shall be made. No further biological study is warranted unless habitat is present or if specific information concerning the known or potential presence of significant biological resources is identified in future updates of the California Natural Diversity Database, or through formal or informal input received from resource agencies or other qualified sources (Policy VII-E.2[a]).
33. SWPH-14. Additional measures to protect sensitive habitats may be implemented. Potential measures to be implemented may include measures listed in Table V-7-1 in the General Plan MEIR.
34. SD-10, 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)

35. 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.

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.

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.

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)

36. 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. (Policy VI.M.6)

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 7, 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 subdivision.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on December 7, 2020, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Vohra, and carried by the following vote:

Ayes:	Morad, Pollard, Shanks, Vohra, Birring
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