

PLANNING COMMISSION
RESOLUTION NO. 2021-10

A RESOLUTION APPROVING THE VESTING TENTATIVE SUBDIVISION
MAP OF TESORO HOMES, INC.

WHEREAS, Tesoro Homes, Inc., has filed an application for a Vesting Tentative Subdivision Map, to divide 5.39 acres located west of McHenry Avenue, south of Pelandale Avenue into 36 single-family residential lots and three landscape lots; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on January 6, 2021, and was accepted for filing and deemed complete on January 22, 2021, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code; and

WHEREAS, copies of said Vesting Tentative Subdivision Map have been sent to local utilities, and various City Departments and divisions; and

WHEREAS, sewer and water facilities, are not currently available, but will be constructed by the applicant and the City in order to make these utilities available to the project site; and

WHEREAS, the area can be served by other utilities and services; and

WHEREAS, the Planning Commission continued the meeting to the June 7, 2021, public meeting to allow the applicant time to address neighborhood concerns about external roadway connections; and

WHEREAS, the Planning Commission further continued the meeting to the June 21, 2021, public meeting to allow the applicant time to address neighborhood concerns about external roadway connections; and

WHEREAS, a public hearing was held by the Planning Commission on June 21, 2021, 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 2021-01, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2014042081) 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.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Map, accepted for filing in the office of the Secretary of the Planning Commission on January 6, 2021, 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 the Final Map, a new street name for "Street A" shall be proposed and approved by both the City and the County.
2. 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. Associated improvements such as curb and gutter, fire hydrants, for "Street A," and connections to Wells Avenue and Crocus Drive; and
 - b. Landscaping and irrigation plans for all street improvements, access gates, the emergency vehicle/pedestrian access on the adjacent parcel to the east and the three landscape lots (Lots A, B and C) as shown on the Tentative Map.
3. Prior to issuance of a building permit, the project will be required to obtain access to existing Wells Avenue and Crocus Drive across the property adjacent to the east to provide connections to the existing streets. Access improvement plans, shall be reviewed and approved by the City Engineer. Construction of these improvements and any required easements or right-of-way dedications shall be completed to the satisfaction of the City Engineer prior to Final Inspection of any dwelling. Crocus Drive from the south side of the Hetch Hetchy Water and Power right-of-way will be a private street unless the city agrees to accept some of Crocus Drive as a public street. Wells Avenue will be a public street ending at the new cul-de-sac.

4. The project shall adhere to City requirements and standards for public utilities within a gated community including 24-hour access by City staff and emergency services. Prior to or concurrent to Final Map recordation, the applicant shall execute a maintenance/access agreement with the City for any necessary public utility work within the privately-owned street, in a form approved by the City Attorney's Office.
5. A 10-inch water main is required between Crocus Drive and Wells Avenue/Detroit Lane to serve the development. The developer will be required to obtain a utilities easement or equivalent mechanism and install a 10-inch water main within said easement in future Crocus Drive if the main is not existing.
6. A 10-inch water main is required in Wells Avenue to complete the looped water distribution system. The developer will be required to install a 10-inch water main within the Wells Avenue Right of Way if it is not existing.
7. There is an existing 10-inch sewer main stubbed just north of the MID canal and between the former Tidewater Southern railroad tracks and the City storm basin. This main is currently a dry main that terminates on Tully Road. The City is developing an extension of the North Trunk along Bangs Avenue east of Carver Road to which the Tully Road 10-inch main will be connected thus completing the sewer alignment for the P-D(607) area. Sewer conveyance for the P-D(607) area shall be through this main when available. Prior to recordation of Final Subdivision Map, developer to coordinate with Modesto Irrigation District to obtain necessary permissions/permit to perform work within MID Lateral No. 6 right-of-way and provide recorded documentation for proposed improvements and future maintenance.
8. Developer is responsible for landscaping, access, and utilities for Lots "A" through "C", as shown on the Tentative Subdivision Map.
9. All storm water generated from the developed site shall be kept on site per current City standards, as amended. There shall be 10 feet of separation from the edge of the storm water trench to the centerline of the nearest city-owned utility.
10. 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.
11. 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. Prior to issuance of building permit, developer shall demonstrate that an encroachment permit or other documentation has been obtained from San Francisco Public Utilities Commission regarding Hetch Hetchy Water and Power for utilities, roadwork, and future maintenance to the satisfaction of the City Engineer. Prior to final inspection of any dwelling unit in the subdivision, all improvements shall be constructed to the satisfaction of the City Engineer.
18. A gate with Knox box (or other City approved lock) will be required to control access to proposed fire access. The gate shall be placed to allow storage of fire vehicle outside of the public right-of-way.
19. In accordance with City of Modesto Standard Specifications Table 10.3, the proposed gate for entering vehicles shall be minimum 50' from the property line on Wells Avenue and with a turn-around space before the gate, to prevent vehicle from backing out of the driveway.

20. Fire hydrant spacing shall be provided at 500-foot intervals so that no property is more than 250 feet from a fire hydrant.
21. Prior to or concurrent with recordation of a Final Map, Applicant shall develop a plan for a future bicycle and pedestrian trail connection from **the Virginia Corridor to Wells Avenue**. **The trail connection may be** designed to be wholly or partially constructed within the adjacent canal right-of-way, as approved by MID and City Parks, Recreation and Neighborhood Department. **The City may request up to a 15-foot (15')** dedication from the northern edge of the subject property for this purpose only if it is deemed necessary to develop a functional and safe trail connection.
22. Hetch Hetchy Water and Power right of way property should not be fenced in a manner that prevents its use as a recreational trail for bicyclists and pedestrians.
23. Prior to the issuance of a building permit, applicant shall submit for review and approval landscape and irrigation plans for lots that will be maintained by the Homeowners' Association, including Lots "A," "B," and "C" on the Tesoro Homes Subdivision Map and Lots "C" and "F" on the Wells Avenue Subdivision Map. Landscape and irrigation plans that comply with the current State of California Model Water Use Ordinance shall be submitted for review and approval when building plan sets are submitted to Development Services.
24. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer. All improvements shall be constructed in accordance with the approved plans.
25. 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.
26. Prior to final inspection, a six-foot-high wood fence with pilasters shall be installed along the west, north, and south property lines, or alternative fencing if approved by the Director of Community & Economic Development.
27. Proposed development designs shall comply with building codes adopted by the City of Modesto at time of building permit application.

28. Prior to map recordation, the developer shall submit to the Director of the Community and Economic Development Department or designee the articles of incorporation by the Property Owners 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 private streets, including connections to Wells Avenue and Crocus Drive to the south side of the Hetch Hetchy Water and Power (HHWP) right of way; HHWP crossing; entry gates; streets; common areas; storm drainage facilities; lighting; and landscaping and irrigation systems within common areas and parkways.
29. Fire hydrant spacing shall be provided at 500-foot intervals so that no property is more than 250 feet from a fire hydrant.
30. Fire hydrants and apparatus access roads as required by the Fire Marshal must be installed and in working order for use prior to the start of building construction.
31. 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.
32. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
33. 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.
34. All access roads and improvements shall be developed to the satisfaction of the City Engineer prior to Final Inspection of any dwelling.
35. With regard to the proposed crossing of the Hetch Hetchy Water and Power (HHWP) right of way, a San Francisco Public Utilities Commission / HHWP Project Review and Land Use Application must be submitted to HHWP for any proposed crossing or work on the HHWP right of way prior to commencement of work in the HHWP.
36. 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:

37. 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.
38. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
39. 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.
40. 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.
41. 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.)
42. 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.
43. 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.
44. 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):

45. Limit traffic speeds on unpaved roads to 15 mph.
46. Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).
47. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
48. Install wind breaks at windward side(s) of construction areas.

49. 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.
50. Limit the area subject to excavation, grading and other construction activity at any one time.
51. 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.
52. 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.
53. 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.
54. 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.
55. 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.
56. 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.
57. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls shall be completed prior to the start of construction. Burrowing owl habitat on the project site and within a 500-foot (150 m) buffer zone shall be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat shall be mapped at an appropriate scale, and the following mitigation measures should be implemented:

- a. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, shall be completed no more than 30 days prior to construction within suitable habitat.
 - b. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction.
 - c. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently.
 - d. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.
 - e. Additional measures shall be undertaken in conformance with SWPH-14 (General Plan Policy VII-E.3[c]), Table V-7-1.
58. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Swainson's Hawk shall be completed prior to the start of construction. Potential Swainson's Hawk habitat on the project site and within a 0.25-mile buffer zone shall be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Swainson's Hawk habitat, no additional action would be warranted. However, if suitable habitat is located within the survey area, all Swainson's Hawk habitat shall be mapped at an appropriate scale, and the following mitigation measures should be implemented:
- a. If ground disturbance is initiated during the nesting season (March 15 – July 31), two pre-construction surveys shall be conducted with surveys not recommended between April 20 and June 10 because of difficulty in detecting active nests during the egg incubation period. The first survey may be conducted up to two months prior to initial activities. The second survey shall occur within 14 days of project initiation.
 - b. If an active nest is observed, a no-disturbance buffer zone shall be established in coordination with CDFW. No-disturbance buffers for new and intensive disturbances are typically 0.25 mile surrounding the nest location until the nest has been determined to no longer be active by a qualified biologist; however, the buffer may be reduced in consultation with CDFW and is dependent upon nest location, existing disturbance barriers, and baseline disturbance levels.
 - c. No surveys are required if ground disturbance is initiated outside of the nesting season; however, impacts to known nest trees should be avoided at all times of year. If avoidance of a known nest tree

(documented nest site within the previous five years) is not feasible, consultation with the CDFW is warranted prior to taking any action, and a determination of "take" potential under CESA or under Fish and Game Code Sections 3503.5 and 3513 will be made.

- d. Additional measures shall be undertaken in conformance with SWPH-14 (General Plan Policy VII-E.3[c]), Table V-7-1.

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)-day 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 21, 2021, 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 21, 2021, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Pollard, and carried by the following vote:

Ayes:	Birring, Pollard, Smith, Vohra, Shanks
Noes:	None
Absent:	Morad, Silva
Recused:	None

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

Original, signed copy on file in CEDD

Steve Mitchell, Secretary