

PLANNING COMMISSION
RESOLUTION NO. 2021-24

A RESOLUTION APPROVING THE FAIRVIEW VILLAGE PHASE 1 VESTING
TENTATIVE SUBDIVISION MAP (STL COMPANY, LLC)

WHEREAS, STL Company, LLC, has filed an application for a Vesting Tentative Subdivision Map, to divide 38.5 acres located east of Carpenter Road and north of Whitmore Avenue into 217 single-family residential lots and six landscape lots; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on August 4, 2021, and was accepted for filing and deemed complete on September 3, 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, a public hearing was held by the Planning Commission on December 20, 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 2021-31, 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 project would not be subject to the requirements of an Urban Level of Flood Protection as defined by Section 65007(n) of the Government Code and required by Section 66474.5 of the Government Code as the elevations of the lowest pads in the project are less than three feet below the identified 200-year floodplain elevation of the site.
4. The proposed Vesting Tentative Subdivision Map is consistent with the policies contained in the City's Urban Area General Plan and the Fairview Village Specific Plan.
5. The specific plan amendment 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 General Plan Master EIR (SCH No. 2014042081).
6. No new or additional mitigation measures or alternatives are required.
7. The subsequent project is within the scope of the project covered by the Master EIR.
8. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.
9. The Initial Study, Environmental Assessment No. EA/C&ED 2021-31, provides the substantial evidence to support findings 4-8, noted above.

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 August 4, 2021, is hereby approved as submitted and as shown in red on the face of the map and subject to the following conditions:

1. The Fairview Village Phase 1 Vesting Tentative Subdivision Map cannot be recorded unless and until the General Plan Amendment and the Specific Plan Amendment have been approved by the City Council and unless and until the Fairview Village #2 has been approved by LAFCO and is in effect.
2. Carpenter Road shall be designed to have left turn pockets for southbound left-turning traffic onto St. Theresa Way and Street G, with safe transitions and appropriate roadway dedications to the satisfaction of the City Engineer.
3. St. Salazar Circle, designed to be a 70-foot-wide connector street, shall be developed as a part-width street along the project frontage.
4. St. Theresa Way, designed to be a 60-foot-wide connector street, shall be developed as a part-width street along the project frontage.
5. Street G, designed to be a 56-foot-wide connector street, shall be developed as a part-width street along the project frontage.

6. Streets internal to the subdivision shall be 50 feet wide and have rollover curbs.
7. Prior to recordation of the Final Map, new street names for Drives "A" through "G" and Courts "A" through "F" shall be proposed and approved by both the City and the County.
8. 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. Water line sizing and connection points to the City's existing storage and well facilities.
 - b. Sewer line sizing and connection points to existing City facilities. Sewer lines will also be further reviewed with improvement plans to account for buildout of the Specific Plan area.
 - c. Storm drain line sizing of adequate size to serve the project.
 - d. Fire hydrants capable of providing the required fire flow for this project shall be installed at no more than 500-foot intervals in residential areas and shown on the Vesting Tentative Subdivision Map.
9. 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 and 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.
10. Prior to recordation of a Final Map, the developer shall take all actions to secure and establish a new City Community Facilities District (CFD) for the **installation and ongoing maintenance of items and/or facilities. Although this project is within the boundaries of CFD No. 2003-1 (Fairview Village), it will be required to form a new CFD to include improvements not included in CFD No. 2003-1 (Fairview Village). An application to form a new CFD along with a deposit in the amount of \$64,500 must be submitted to the Community Development Division to initiate the formation process.**
11. An all-weather fire apparatus access road capable of supporting the imposed load of a 60,000-pound vehicle shall be provided within 150 feet of any combustible materials prior to the start of construction.
12. Cul-de-sacs must be designed with a 45-foot outside and a 25-foot inside clear turning radius.

13. Proposed development designs shall comply with building codes adopted by the City of Modesto at time of building permit application.
14. Prior to or concurrent with map recordation, all public utility easements shall be dedicated as required by the utility companies and the City Engineer.
15. 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.
16. Storm water drainage shall be collected and conveyed to the central storm water drainage basin in accordance with City and Specific Plan standards. The subdivider shall expand the storm drain basin to a size sufficient to provide drainage for the project to the satisfaction of the City Engineer. All storm water drainage improvements shall comply with the 2011 Revised Guidance Manual for Development Stormwater Quality Control Measures, NPDES Permit No. CAS083526; Order R5-2008-0092.
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 run-off in the central stormwater basin, and incorporate pervious landscape features into the project design wherever possible.
19. If any post-construction LID and/or treatment control measures will be located on private property and/or privately maintained, then the Property Owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording before the issuance of a Grading, Demolition, or Building Permit.
20. 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.
21. 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.

22. The developer shall provide at least a 1:1 ratio of agricultural land mitigation in accordance with Local Agency Formation Commission (LAFCo) policies as amended. This may be accomplished by paying an agricultural mitigation fee of \$4,800 per gross acre or \$851.61 per dwelling unit for each of 217 units prior to issuance of a building permit to the City of Modesto to compensate the City for its commitment to place a conservation easement on City-owned property in Stanislaus County on land owned by the City of Modesto at the City's Secondary Wastewater Treatment Plan.
23. Future home buyers and prospective residents of Fairview Village shall be provided disclosure that they are subject to noise, dust, odor and other impacts from adjacent agricultural operations. Such notice shall be placed on the Final Map at recordation.
24. 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.
25. Prior to issuance of the first building permit, Applicant shall provide Landscape and Irrigation plans for subdivision lots for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current State of California water use requirements, Modesto Municipal Code requirements and City of Modesto standards at time of submittal.
26. Prior to issuance of the first building permit, Applicant shall provide Landscape and Irrigation plans for all public right-of-way for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current streetscape standards, current State of California water use requirements, Modesto Municipal Code requirements and City of Modesto standards at time of submittal.
27. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
28. A seven-foot-tall masonry wall shall be constructed between residential properties and Carpenter Road.
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, community facility fees, building permit and plan check fees.
30. Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.

31. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
32. 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:

33. **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)
34. **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)
35. **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)
36. **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)
37. **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)
38. **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)

39. **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)
40. **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)
41. **AQ-114.** Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site. (Policy VII.H.2.xx)
42. **AQ-115.** Install wind breaks at windward side(s) of construction areas. (Policy VII.H.2.yy)
43. **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)
44. **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)
45. **Noise-6.** Use the most recent noise contour map (Figure VII-2) to implement the requirements of Noise Insulation Standards contained in Title 24 of the California Code of Regulations. Developers may be allowed to demonstrate that detailed noise studies and / or mitigation are not necessary due to local conditions, changes in the expected future noise environment, or inapplicable assumptions made in the Master EIR. (Policy VII-G.3.d)
46. **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)
47. **Noise-11.** Limit trucking to specific routes, times, and speeds that avoid or minimize adverse effects on sensitive receptors. (Policy VII-G.3.i)

48. **AL-21**. Require development projects to comply with current LAFCo policy(ies) regarding preservation of agricultural resources. (Policy VII-D.4[f])
49. **SWPH-14 (k)**. The State-threatened Swainson's hawk is known to nest within the General Plan Area in grassland, riparian, and agricultural habitats. Because of the loss of suitable foraging habitat and existing nesting habitat that may occur during area development, mitigation measures compensating for these potential losses of habitat shall be included. The CDFW considers the removal of known raptor nest trees, even outside of the nesting season, to be a significant impact under CEQA and, in the case of Swainson's hawk, could also result in "take" under the CESA. This is especially true in species such as Swainson's hawk, which exhibit high site fidelity to nest trees and nesting area year after year (CDFG 1994).
- To avoid such impacts, surveys for nesting Swainson's hawk shall be conducted for projects within riparian, grassland, and agricultural habitats as mapped by Figure V-7-1 or for projects within 0.25 mile of such habitats (see Figure V-7-2) and containing potential nest trees (trees greater than 20 feet in height). Surveys shall follow the methodology developed by the Swainson's Hawk Technical Advisory Committee (2000) and survey potential nest trees within 0.25 mile of disturbance activities.
- 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 Swainson's hawk 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.
 - 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.
 - 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. Project-related "take" (as defined in Section 86 of the Fish and Game Code) of Swainson's hawk must be completely avoided or a State Incidental Take Permit, pursuant to Section 2081 of the Fish and Game Code, would be warranted.

50. **AH-15.** Whenever possible, avoid disturbing or damaging archaeological resources. Preservation in place to maintain the relationship between the artifacts and the archaeological context is the preferred manner of mitigating impacts to archaeological sites. Preservation may be accomplished by:
- (1) Planning construction to avoid archaeological sites;
 - (2) Incorporating sites within parks, green space, or other open space;
 - (3) Covering the sites with a layer of chemically stable soil; and/or,
 - (4) Deeding the site into a permanent conservation easement.

When in-place mitigation is not feasible, data recovery through excavation may be necessary. A data recovery plan, which makes provisions for adequately recovering the scientifically consequential information about the site, shall be prepared and adopted prior to any excavation being undertaken. Such studies must be deposited with the Central California Information Center in Turlock, California. Special rules apply to any archaeological sites known to contain human remains (Health and Safety Code Section 7050.5; Guidelines Section 15126.4(b)).

Data recovery shall not be required if the lead agency determines that testing or studies already completed have adequately recovered the necessary data, provided that the data have already been documented in another EIR and are available for review at the California Historical Resource Regional Information Center (Guidelines Section 15126.4(b)). (Policy VII.F.2[I])

51. **AH-16.** Allow reasonable time for the qualified archaeologist 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. (Policy VII.F.2[m])
52. **AH-17.** If any find is determined to be significant by the qualified archaeologist, representatives of the construction contractor and the City, the qualified archaeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) will meet to determine the appropriate course of action. (Policy VII.F.2[n])
53. **AH-18.** All cultural materials recovered as part of a monitoring program are subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards. (Policy VII.F.2[o])
54. **SD-10.** 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)

55. **SD-12.** Ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures. (Policy VI.G.5)
56. **SD-13.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)
57. **SD-15.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)
58. **FWQ-11.** 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. (Policy VI.G.3)
59. **FWQ-13.** Ensure that new development complies with the City of Modesto's Stormwater Management Program: Guidance Manual for New Development Stormwater Quality Control Measures. (Policy VI.G.5)
60. **FWQ-14.** Require new development to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. (Policy VI.G.6)
61. **FWQ-16.** Integrate Low Impact Development principles into proposed development projects' design. Low Impact Development is a storm water management and land development strategy that promotes conservation and use of natural on-site features combined with engineered small-scale hydrologic devices. In designing development projects, minimize the amount of impervious surface in order to maximize on-site infiltration of stormwater runoff and minimize the potential for storm water runoff from the site. (Policy VI.G.8)

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 December 20, 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 December 20, 2021, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Morad, and carried by the following vote:

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

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

Original, signed copy on file C&EDD
Steve Mitchell, Secretary