

PLANNING COMMISSION  
RESOLUTION NO. 2022-09

A RESOLUTION APPROVING AREA PLAN NO. 5 IN THE TIVOLI SPECIFIC PLAN, PROPERTY LOCATED AT THE NORTHWEST CORNER OF SYLVAN AVENUE AND MCREYNOLDS AVENUE (SNOW PROPERTIES, LP)

WHEREAS, the City Council adopted the Tivoli Specific Plan, a 454-acre area of land adjoining the northeast portion of the City of Modesto, by Ordinance No. 3479-C.S. on February 26, 2008; and

WHEREAS, the Tivoli Specific Plan is comprised of nine Area Plans subject to review and approval by the Planning Commission, each Area Plan is denoted to ensure that the circulation, infrastructure, land use, density, project design and other specific plan provisions are provided for each Area Plan as required by Section 9.4.1 of the Tivoli Specific Plan; and

WHEREAS, Section 9.4.1 of the Specific Plan requires the Planning Commission's review and approval of each Area Plan prior to development within the Area Plan; and

WHEREAS, an application for Planning Commission consideration and approval of Tivoli Area Plan No. 5, located at the northwest corner of Sylvan Avenue and McReynolds Avenue was filed by Snow Properties LP on October 1, 2021 in accordance with Section 9.4.1 of the Tivoli Specific Plan; and

WHEREAS, said application was made concurrently with an application for Final Development Plan and a Vesting Tentative Subdivision Map to divide 38 acres into 213 single-family residential lots including 165 small-lot single-family residential lots, and five landscape lots within Area Plan No. 5, located at the northwest corner of Sylvan Avenue and McReynolds Avenue; and

WHEREAS, a public hearing was held by the Planning Commission on March 21, 2022, 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 2021-32, which concluded that the project is within the scope of the Tivoli Specific Plan Final EIR (SCH No. 2005072125) and that pursuant to Sections 15162, 15168(c) and 15182 of the CEQA Guidelines, no new environmental review is required.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. 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 Tivoli Specific Plan Final EIR and whether the subsequent project was described in the Final EIR as being within the scope of the report.

2. As per Sections 15162, 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Tivoli Specific Plan Final EIR and no new environmental document or findings are required by CEQA.
3. The project will have no new effects which were not examined in the Tivoli Specific Plan Final EIR and no new mitigation measures would be required.
4. There are no substantial changes proposed in the project, which will require major revisions of the Tivoli Specific Plan Final EIR.
5. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Tivoli Specific Plan Final EIR.
6. No new information, which was not known and could not have been known at the time the Tivoli Specific Plan Final EIR was certified as complete, has become available.
7. There are no specific features that are unique to the proposed project that require project-specific mitigation measures. Accordingly, the certified mitigation measures identified in the Final EIR will be sufficient for this project.
8. All feasible mitigation measures set forth in the Final EIR which are appropriate to the project shall be incorporated in the project.
9. The Initial Study, Environmental Assessment No. EA/C&ED 2021-32 provides the substantial evidence to support findings 3-8, noted above.

BE IT FURTHER RESOLVED by the Planning Commission as follows:

That the Area Plan No. 5 for the proposed Snow Property (Tivoli), described in Exhibit "A," attached hereto and incorporated herein by reference, be approved subject to the following conditions:

1. Except as amended herein, or by reference, all development shall be in accordance with Area Plan No. 5, and the associated Final Development Plan (FDP-21-002) and Vesting Tentative Subdivision Map of Snow Property (Tivoli) (TSM-21-005), as set forth in Planning Commission Resolutions No. 2022-xx and 2022-xx, adopted on March 21, 2022.
2. 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.

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 March 21, 2022, 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 March 21, 2022 by Commissioner Shanks, who moved its adoption, which motion was seconded by Commissioner Morad and carried by the following vote:

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

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

  
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Steve Mitchell, Secretary

**EXHIBIT A**  
TIVOLI AREA PLAN NO. 5